

CITY OF WOODBURN

CITY COUNCIL AGENDA

JANUARY 28, 2008 – 7:00 P.M.

KATHRYN FIGLEY, MAYOR
WALTER NICHOLS, COUNCILOR WARD I
RICHARD BJELLAND, COUNCILOR WARD II
PETER MCCALLUM, COUNCILOR WARD III
JAMES COX, COUNCILOR WARD IV
FRANK LONERGAN, COUNCILOR WARD V
ELIDA SIFUENTEZ, COUNCILOR WARD VI

CITY HALL COUNCIL CHAMBERS – 270 MONTGOMERY STREET

6:00 PM – WORKSHOP

1. **Housing Ordinance**

7:00 PM – REGULAR CITY COUNCIL MEETING

1. **CALL TO ORDER AND FLAG SALUTE**
2. **ROLL CALL**
3. **ANNOUNCEMENTS AND APPOINTMENTS**

Announcements:

- A. A public hearing regarding traffic impact fees will be held on February 11 at 7:00 pm in the City Hall Council Chambers.
- B. A public hearing regarding the supplemental budget will be held on February 11 at 7:00 pm in the City Hall Council Chambers.
- C. A public workshop regarding proposed changes to the animal control ordinance will be held on February 19 at 7:00 pm in the City Hall Council Chambers.

Appointments:

None.

4. **PROCLAMATIONS/PRESENTATIONS**

Proclamations:

None.

Presentations:

None.

“Habr  interpretes disponibles para aqu llas personas que no hablan Ingl s, previo acuerdo. Comuniquese al (503) 980-2485.”

5. COMMITTEE REPORTS

A. Chamber of Commerce

6. COMMUNICATIONS

None.

7. BUSINESS FROM THE PUBLIC – *This allows the public to introduce items for Council consideration not already scheduled on the agenda.*

8. CONSENT AGENDA – *Items listed on the consent agenda are considered routine and may be enacted by one motion. Any item may be removed for discussion at the request of a Council member.*

- | | |
|--|-----------|
| A. Woodburn City Council minutes of January 14, 2008, regular and executive session | 1 |
| <u>Recommended Action:</u> Approve the minutes. | |
| B. Woodburn Parks and Recreation Annual Board Workshop draft minutes of January 8, 2008 | 14 |
| <u>Recommended Action:</u> Accept the draft minutes. | |
| C. Community Services Department Statistics for December 2007 | 17 |
| <u>Recommended Action:</u> Receive the report. | |
| D. Planning Project Tracking Sheet dated January 23, 2008 | 18 |
| <u>Recommended Action:</u> Receive the report. | |
| E. Personal Services Agreement for Mill Creek Trail Design | 21 |
| <u>Recommended Action:</u> Receive the report. | |

9. TABLED BUSINESS

None.

10. PUBLIC HEARINGS

None.

11. **GENERAL BUSINESS** – *Members of the public wishing to comment on items of general business must complete and submit a speaker's card to the City Recorder prior to commencing this portion of the Council's agenda. Comment time may be limited by Mayoral prerogative.*
- A. **Council Bill No. 2698 – Resolution directing that a stop sign be installed on Williams Avenue at the intersection of Carol Street** 24
Recommended Action: Adopt the resolution.
- B. **Council Bill No. 2699 – Resolution extending workers' compensation coverage to volunteers of the City of Woodburn** 27
Recommended Action: Adopt the resolution.
- C. **2008 OLCC Renewal** 31
Recommended Action: Recommend to the Oregon Liquor Control Commission renewal of liquor licenses for the listed businesses for the year 2008.
- D. **Spanish Language Classes** 38
Recommended Action: Approve a budget transfer in the amount of \$750 to provide Spanish language instruction to City Employees.
- E. **City Administrator Employment Agreement** 40
Recommended Action: Approve, and authorize the Mayor to execute, the Addendum to the Employment Agreement with John C. Brown.
12. **NEW BUSINESS**
13. **PLANNING COMMISSION OR ADMINISTRATIVE LAND USE ACTIONS** – *These are Planning Commission or Administrative Land Use actions that may be called up by the City Council.*
- None.
14. **CITY ADMINISTRATOR'S REPORT**
15. **MAYOR AND COUNCIL REPORTS**
16. **ADJOURNMENT**

January 28, 2008

TO: Honorable Mayor and City Council

FROM: John C. Brown, City Administrator 

SUBJECT: **Housing Ordinance**

RECOMMENDATION:

It is recommended the City Council approve the attached rental housing ordinance for the purpose of discussions with rental housing representatives.

BACKGROUND:

The Council held a workshop on December 10, 2007 to discuss a draft rental housing ordinance. Background regarding this issue is included in the staff report for that workshop (Attachment 1).

The Council raised questions and concerns about the proposed ordinance, and asked for a staff response on January 28, 2008. The Council sought additional information on three issues: applicability to manufactured homes occupying manufactured dwelling parks, occupancy limits, and basement egress windows. These are addressed below, as are staff findings and recommendations regarding other questions raised by the Council. Council also discussed changes to clarify the livability standards used for enforcement, a non-retaliation clause, clarification of terms used in the ordinance, and fee provision modifications to eliminate charges but retain the ability to charge fees in the future.

DISCUSSION:

The attached document reflects staff's recommendations for a rental housing ordinance. Recommendations are based on staff's analysis of federal and State requirements, state programs, programs in other cities, and other applicable codes and regulations. The revised draft was written for legal defensibility and practicality of administration. It was drafted to apply only to rental housing, as more need appears to exist for the protections provided by

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the ordinance for those who do not own their homes. It is recommended that the Council focus exclusively on rental housing at the present time, to implement the program within the limits of existing budgets and to establish need, demand, workload, and cost experience. The program can be expanded later, if needed.

Staff revised the ordinance to reflect the livability standards contained in State tenant/landlord law. These standards provide the kind of protections the Council seems to want, allow for reasonable flexibility in enforcement, and should already be familiar to landlords. These protections are already available to renters. For a variety of reasons, renters may be reluctant to raise their housing concerns with their landlords. Because of the overlap between State law and the proposed ordinance, staff is concerned some residents may complain to the City before their landlord is even aware of the problem. Substituting the City as proxy for the tenant may subject landlords to unnecessary City regulation, will increase program costs, and ignores the personal responsibility that renters have for their own welfare. Because tenants may not know their rights under existing State laws, this program would include an education component to advise tenants of the kinds of assistance that is currently available to them. Because fear of retaliation is also a concern, staff included a no-retaliation provision in the ordinance as was discussed at the last Council meeting.

Regarding the specific issues for which Council sought additional information:

Manufactured Housing.

The Oregon Housing and Community Services Department addresses the conditions of manufactured dwelling parks, and certain rented manufactured housing stock in those parks. State involvement, however, is limited to facilitation and mediation between park owners and tenants, and does not address livability inside the structure. If the intention of the ordinance is to provide protections to renters, related to livability issues, and because the State of Oregon is not currently providing this level of protection, staff sees no reason to draw distinctions between tenants renting stick-built or manufactured housing. Therefore, the revised draft was modified to apply to tenants renting manufactured housing in a manufactured dwelling park.

Occupancy.

While it is possible to address maximum occupancy of dwelling units as a part of this ordinance, the occupancy standard must be "reasonable" under federal law to avoid City liability. A memorandum from the City Attorney is attached specifically addressing this issue. Occupancy limits in the handful of Oregon jurisdictions that now address this issue are as follows:

OCCUPANCY LIMITATIONS*

<u>Jurisdiction</u>	<u>Standard</u>
Beaverton, Oregon	1+1 additional resident for every 150 square feet
Farmworker Housing (OR-OSHA)	1+1 additional resident for every 100 square feet
Hermiston, Oregon	1+1 additional resident for every 100 square feet
Portland, Oregon	1+1 additional resident for every 100 square feet
Tigard, Oregon	1+1 additional resident for every 150 square feet

*Calculated based on "habitable" area, which excludes bathrooms, hallways, closets and similar spaces.

Accordingly, staff recommends 150 square feet of habitable space per occupant as the most restrictive enforceable standard that is consistent with federal law.

Egress Windows in Basements.

Occupants in a basement need a means of egress in the event that doorways become sealed or blocked by fire. Building codes require egress windows in basements for this reason. This is the same requirement employed, for the same reasons, in the City subdivision standard which requires two means of ingress/egress for each subdivision. Staff continues to recommend the requirement for basement egress windows, as presented to the Council on December 10th, for the safety of renters.

Other issues were also raised at your last workshop:

Bathrooms.

Council briefly discussed establishing requirements for the minimum number of bathrooms in each unit. There are no such standards for new construction. And a single bathroom properly plumbed, is physically sufficient to serve the needs of a large number of occupants. Therefore, no provisions regarding the number of bathrooms are recommended.

Temperature Standards.

Two temperature standards were discussed, for water and room temperature. The 120 degree standard for hot water was questioned, as was the requirement that space heating be sufficient to produce a temperature of 68 degrees at a height of three feet above the floor. This latter discussion focused on the permissibility of space heaters as primary heating source.

With respect to the water temperature standard, water heaters in new construction must be able to heat to at least 120 degrees Fahrenheit, to provide sufficient heat when combined with soap to sanitize eating and drinking utensils. A higher temperature is more desirable, which is why some late-model dishwashers come with a booster to increase water temperature. Tenant landlord standards require "hot and cold" running water – a subjective standard. Staff believes a specific temperature standard, sufficient to sanitize dishes and easily measured, is preferable. Accordingly, recommended ordinance language includes the 120 degree standard.

With respect to space heating, portable space heaters are not recommended as an adequate primary heat source. Older space heaters or those relying on combustible fuel can present a fire danger, and electric space heaters can easily overload the wiring in older homes, when combined with too many other electric appliances. Space heaters also heat only a limited space, leaving other rooms cold. Space heaters may be an effective addition to primary heat sources, but should not act as a replacement.

Regarding primary heat sources, it is acknowledged that older homes may have been constructed with heating systems that are not capable of heating the entire house to the 68 degree standard included in the first ordinance draft. It is also acknowledged that a temperature of less than 68 degrees may be acceptable to some, particularly if they are wearing heavy clothing. Recognizing these circumstances, staff recommends the Council rely on the standard imposed in landlord tenant law that requires that the unit have

adequate heat sources conforming to applicable law at the time of installation and which are maintained in good working order.

Carbon Monoxide Monitoring.

Carbon monoxide monitors are not necessary in many homes. It is questionable whether requiring a monitoring device is within the city's jurisdiction, even if a monitor might be beneficial. Carbon monoxide is the unburned by-product of combustion. It should not be found in all-electric homes or those where water heaters and central heating units are located outside the dwelling (as required by building codes). Carbon monoxide might be present in homes with gas ranges or clothes dryers, or wood burning stoves, but not in unhealthy amounts or at all if those appliances are properly ventilated. The Building Official believes requiring carbon monoxide monitors imposes a building standard which the City may not do pursuant to building codes. Practically, it will be very difficult to fairly impose this requirement without knowing on a unit by unit basis which units might need a carbon monoxide monitor or not. Accordingly requirements related to carbon monoxide monitoring are not included in the ordinance.

Other Charges.

A limited number of other changes were discussed by the Council as desirable. Definitions of the words "approved" and "listed" as used in the ordinance were requested. Accordingly, the revised draft includes a definition of "approved." As "listed" was used only once in the document. The section in which it appeared was re-written to make its meaning more clear; eliminating the need for another definition. A modification to the judicial review section was also requested, to include the time and location of the referenced hearing. This has been done. And, as mentioned previously, the Council agreed to preserve the opportunity to charge fees in the future, rather than immediately, once reliable program cost experience is gained. The ordinance has been revised to reflect that choice.

Finally, a "legislative findings" section was added to strengthen the ordinance.

As indicated, staff believes the attached ordinance accomplishes, to the degree that legal defensibility allows, the goals Council discussed in its December 10, 2007 workshop. Your approval of the draft ordinance, for the purpose of discussions with rental housing representatives, is therefore recommended. As indicated in December, it would be staff's intention to bring

back an ordinance for your final consideration within 30 days, following meetings with those representatives.

FINANCIAL IMPACT:

Unknown at the present.



December 10, 2007

TO: Honorable Mayor and City Council

FROM: John C. Brown, City Administrator

SUBJECT: **Housing Ordinance**

RECOMMENDATION:

Consider the attached rental housing ordinance discussion draft, and provide direction to staff as appropriate.

BACKGROUND:

The City Council has discussed a housing ordinance during its goal setting sessions since 2003. Although it was not added to the Council's formal list of goals until 2007, staff indicated in earlier sessions the matter would be addressed as time and resources permitted. The housing ordinance has been included in City Attorney department goals since 2005-06 budget, but took a back-seat to other more pressing matters, as it awaited administrative analysis in other departments. The City Attorney's goals for 2007-08 provide a December 31, 2007 completion date for an ordinance.

Council's early discussions regarding a housing ordinance explored the consensus that might exist regarding the desirability of property maintenance regulations beyond those provided by the Dangerous Building Ordinance. Subsequent discussions delved into protecting tenants from substandard housing conditions due to lack of maintenance and/or structural deficiencies. Staff was asked to review models, such as the Uniform Housing Code for the purpose of customizing them to fit Woodburn's needs. Staff was also asked to provide an analysis of the impact on city staff and financial resources. By January 2007, the Council's focus was refined to structural condition.

In 2004, Building Division staff attempted to quantify the workload and fiscal impacts of implementing a housing ordinance. They determined staff time and city costs would depend on the scope of the program, and the difficulty encountered in obtaining compliance from property owners. Although that

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analysis was not sufficient to assist in a Council decision at that time, it remains true that workload and fiscal impact will be determined by the scope of enforcement.

Staff has also pointed out that protections and enforcement authorities already exist, in the form of the Dangerous Buildings Ordinance, the Nuisance Ordinance, and Oregon tenant/landlord relations law.

DISCUSSION:

The attached ordinance was prepared relying on assumptions based on my discussions with the City Council and staff. Those assumptions are:

- The City Council wants to insure decent housing for those who rent from others and have little or no choice in how a structure is maintained
- Enforcement should be limited to habitable, residential, structures
- Duplication of, or overlap with, other programs should be avoided
- An ordinance should be internally consistent and consistent with other legal authorities
- Enforcement should be conducted using Code Enforcement Officers, City or County Building Division staff should be used as a supporting resource
- Enforcement procedures should mirror those used to abate other nuisances
- The financial cost of the program should be borne by its beneficiaries

Most of these assumptions are a policy choice. As I view it, however, there are two major policy choices, beyond the fundamental question of "does a need exist for this ordinance?" which I'll address in greater detail later in this report. These are breadth of application and financial responsibility.

Staff examined four options for developing a housing ordinance: adopt the Uniform Housing Code, modified to address the foregoing assumptions; adopt the International Property Maintenance Code, modified to address the foregoing assumptions; adopt the housing code of another City, modified to address the foregoing assumptions; or develop an entirely new ordinance. As the first three options can be implemented more efficiently, the last option was not pursued.

As additional background, the Uniform Housing Code (UHC) was last updated in 1997. It was superseded by the International Property Maintenance Code (IPMC), the current version was adopted in 2006. The UHC was authored by the

International Conference of Building Officials (ICBO) based on the Uniform Building Code (UBC). The ICBO then coordinated a code update with two other regional organizations and developed a new set of national model codes. This collaboration by the three major code groups resulted in the formation of the International Code Council and the creation of the International Building Code, which replaced the UBC as the predominant model building ordinance. The IPMC is the successor to the UHC, based on the International Building Code. The City of Woodburn has adopted the State of Oregon Structural Specialty Code (OSSC) and the State of Oregon Residential Specialty Code (ORSC). These codes are compatible with the International Code Council documents established in the IBC.

The change from UHC to IPMC does not prevent Woodburn from adopting the UHC. That the code was superseded, however, combined with other factors, led staff to recommend a different model for a Woodburn ordinance. Those factors can be enumerated at your request, but generally can be characterized as inconsistencies or overlap with the WDO, and dangerous building and nuisance ordinances; procedures that differ significantly from those utilized for other City abatement activities; references to the UBC and Uniform Mechanical Code that are no longer pertinent; standards higher than the OSSC and ORSC adopted by the City, and those outside the City's authority to enforce; and designation of responsibility to departments and officials that do not exist within the City organization.

As successor to the UHC, the IPMC was also evaluated by staff as the model for a housing ordinance. Factors weighing against that recommendation can also be enumerated. In general, however, staff found the IPMC presented some of the same kind of problems as the UHC. And it applies to all structures, not just those used for habitation.

In its analysis of the ordinances used in other Oregon cities, staff found the same model is being used effectively in Corvallis, Portland, and Tigard and applies only to rental housing. This same model has more recently been adopted in Eugene, where it is also being used effectively. The attached ordinance is based on that model, modified to address Woodburn assumptions, particularly those related to process. Staff believes the attached ordinance, when combined with existing ordinances and State law provides the protection contemplated by the Council, and addresses the assumption upon which it was developed. It is presented for your consideration, discussion, and further direction.

In summary, the ordinance:

- Provides only minimum habitability criteria, enumerating standards for:
 - Structural integrity
 - Plumbing
 - Heating
 - Weatherproofing
 - Chimneys
 - Stairs, handrails, porches, and guardrails
 - Windows
 - Doors
 - Smoke detectors; and
 - Addressing

It:

- Applies to only, but all, rental housing in the City of Woodburn including apartments multi-plexes and single family units
- Exempts hotels and motels; hospitals, nursing care, and medical facilities, group homes and manufactured dwellings in a manufactured dwelling park
- Supplements the Oregon Residential Landlord and Tenant Act
- Compliments, rather than overlaps, City Nuisance and Dangerous Buildings ordinances
- Provides the same due process to those who are subject to enforcement, and follows the same abatement process as other City nuisance ordinances.
- Establishes a fee, to be imposed on the owner of each rental unit, to recover the cost of enforcement. The fee would be updated as part of an annually review of the Master Fee Schedule, based on preceding year's costs.

If adopted, staff proposes to administer this ordinance on a complaint-driven basis, using code enforcement staff as the primary contact. Depending on complexity of a case, building division staff, or the county building division staff, might serve as technical resources. The number of complaints to be addressed each year is unpredictable. It is the experience in other jurisdictions, however, that enforcement activities will tail off as landlords become more familiar with their responsibilities and as problems are corrected.

Beyond the fundamental question of "is there a need for this ordinance," are the questions of how broadly should the ordinance be applied – all buildings, all residential structures whether owner occupied or rented, or only to rental units –

and should the beneficiaries be required to support the cost of enforcement activities.

Staff recommends the Council limit applicability to rental units only, as tenants may have little or no control over how a property is maintained. This limitation would allow owner/occupiers to exercise their choice to live in poorly maintained structures, a choice that affects neighbors and the surrounding neighborhood. Limiting enforcement to rental units facilitates the imposition of program charges to beneficiaries. Imposition of a property-based charge to all residential units in the City is problematic; an assessment placed on rental businesses is far less so.

While improving the condition of our rental housing stock benefits the entire community, the primary beneficiary of this program is the resident. Accordingly, staff also recommends the Council assess a charge for each rental unit. This would be a charge to the landlord, to support the cost of the program. The charge would, presumably, be passed on to the tenant in the form of a rental assessment. The program will be conducted to control costs, which will be accounted for each year. It is proposed that the initial assessment be adjusted annually, to recover the previous year's costs of operation.

A nominal amount of between \$5 and \$8 per unit is suggested as a starting point, which might generate between \$10,000 to \$15,000 in the first year, based on a loosely estimated 2,000 rental units. Such a sum might be sufficient, if the number of cases is low, and compliance is quickly obtained. More complicated cases, on the other hand, such as those requiring adjudication, would easily consume such sums.

The attached ordinance and this report are intended to prompt additional discussion regarding the policy considerations identified in this report. If the Council wants to proceed with the attached ordinance, it is recommended staff be given the opportunity to review the document with our landlord and apartment manager community partners, before an ordinance is adopted.

FINANCIAL IMPACT:

As previously indicated, the fiscal and workload impacts of this program are difficult to predict. A complaint driven program will help contain costs by limiting the number of open cases. The amount of time needed to bring each case to closure will vary. Based on our Code Enforcement experience, however, it is expected that most property owners will remedy deficiencies

when they are notified. Rather than attempt to predict the budgetary requirements for this program, if the Council chooses to implement the program, it is recommended that no budgetary or staffing adjustments be made at the present time. It is recommended that the program be allowed to operate for a year, before any adjustments are made. It is recommended, however, that fees become effective with the adoption of the ordinance, to reduce impact to the general fund.

MEMO

FROM THE WOODBURN CITY ATTORNEY

TO: Mayor and Council
John C. Brown, City Administrator

FROM: N. Robert Shields, City Attorney

DATE: January 25, 2008

RE: **Occupancy Standard**

Background

Staff presented a Rental Housing Ordinance to Council in a December 10, 2007 workshop. The ordinance was extensively discussed and will be addressed again by Council in a January 28, 2008 workshop. The ordinance sets a maximum occupancy limit of “one resident, plus one additional resident for every 150 square feet or portion thereof of floor area of the habitable rooms of the dwelling unit.

A significant amount of litigation has occurred throughout the United States concerning municipal occupancy limits. Federal law governs the legal parameters in this area. The purpose of this memo is to supplement the City Administrator’s Staff Report and provide Council an overview of the governing law. I will also be available at the workshop to answer your questions.

A Municipal Occupancy Limit must be “Facially Reasonable”

Federal courts have consistently ruled that the setting of municipal occupancy limits involves two “protected classes” – race (i.e., statistically, certain races have larger families) and familial status (i.e., whether a family has children).

More specifically, the Fair Housing Act requires that municipal occupancy standards be facially “reasonable.” This means that the text of the ordinance itself (as opposed to the manner in which the ordinance is applied) must be reasonable. What standard is considered “reasonable” has been determined by the position of the federal Department of Housing and Urban Development (HUD).

HUD’s position has been that an occupancy standard that is not more restrictive than “a minimum gross floor area of not less than 150 for the first occupant and 100 square feet for each additional resident” is considered a “safe harbor” under the Fair Housing Act. For a municipality to deviate from this “safe harbor” would require, at a bare minimum, a professional study supporting why it believes a more restrictive standard is “reasonable.”

Even with such a study, a more restrictive standard would be difficult to justify given HUD's position and the occupancy standards set by the State of Oregon and other Oregon cities (see City Administrator's Staff Report). If a federal court found a more restrictive standard "unreasonable" and that the City violated the Fair Housing Act, the City could be liable for the payment of damages and attorney fees.

A Municipal Occupancy Limit must also be "Reasonable as Applied"

In addition to the "facially reasonable" requirement, federal law requires that any municipal occupancy limit be applied (i.e., enforced) in non-discriminatory manner. The town of Cicero, Illinois, for example, was sued by the federal government under the Fair Housing Act. The complaint alleged both that the adopted occupancy limit was "unduly restrictive" and that city officials were enforcing the ordinance "with the objective of preventing, or discouraging, Hispanic families with children from becoming residents of the town." A copy of the federal government's complaint filed against Cicero is attached. The case against the town of Cicero was settled by Cicero entering into a Consent Decree agreeing to pay compensation and make changes in its city requirements.

Attachment: Complaint

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ATTACHMENT 1
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UNITED STATES OF AMERICA,
Plaintiff,

v.

Civil Action No. 93C-1805
Judge Zagel

TOWN OF CICERO, ILLINOIS;
CICERO BOARD OF TRUSTEES;
BETTY LOREN, RUSSELL SPIREK,
RICHARD SMETANA, FRANK
MALTESE, LEO FREDERICK,
JOHN KOCIOLOKO, JOSEPH
DE CHICIO, and GERALD
RESNICK, in their capacities
as members of Cicero's
Board of Trustees,
Defendants.

COMPLAINT

The United States of America alleges:

1. This action is brought by the United States to enforce the provisions of Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act), as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601, et seq.
2. This Court has jurisdiction over this action under 28 U.S.C. § 1345 and 42 U.S.C. § 3614.
3. The Town of Cicero, Illinois ("Town"), is a political subdivision established and operated as a municipal corporation under the laws of the State of Illinois. It is located in Cook County, within the Northern District of Illinois. The Town's eastern and northern boundaries border directly on the City of Chicago.
4. The Town of Cicero is governed by a Board of Trustees consisting of eight members, including the Town President. Defendant Betty Loren is the interim Town president and a member of the Cicero Board of Trustees. Defendants Russell Spirek, Richard Smetana, Frank Maltese, Leo Frederick, John Kociolko, Joseph De Chicio, and Gerald Resnick are members of the Cicero Board of Trustees. These persons are named as defendants in their capacities as Town Trustees.
5. Defendant Gerald Resnick is also the Building Commissioner of the Town of Cicero. In that capacity, he is responsible for enforcing certain laws, ordinances, and regulations relating to the use and occupancy of buildings, including residential dwellings, located within the Town

boundaries.

6. At the time of the 1970 Census, the Town of Cicero had a total population of 66,058. Virtually all of the Town's population at that time was white and non-Hispanic. The Census counted only 5 black persons and 917 persons of Spanish origin.
7. The 1980 Census revealed that additional black persons and persons of Spanish origin had moved into the Town of Cicero. The Census counted 61,232 persons, of whom approximately 61 (.1 percent) were black, and of whom 5,271 (8.6 percent) were of Spanish origin.
8. The 1990 Census revealed a substantial increase since 1980 in the Hispanic population of the Town of Cicero. In 1990, the Town had a total population of 67,436, of whom 24,931 (37 percent) were Hispanic, and of whom 141 (.2 percent) were black. Since the 1990 Census, the influx of Hispanic families into the Town has continued, and a substantial majority of families seeking to move into the Town since the Census have been Hispanic. Real estate professionals estimate that, in 1992, prior to the discriminatory actions challenged in this lawsuit, approximately 80 percent of persons purchasing residential dwellings within the Town have been Hispanic.
9. Defendants have been aware of the demographic changes described above. Defendants believe that Hispanic families have a larger number of children than white families and that Hispanic households are accordingly larger than white families. Acting on this belief, the defendants, on December 23, 1991, sought to exclude these Hispanic families from residence in the Town by enacting an ordinance that limits the number of persons who may occupy a residential dwelling based on the size of the dwelling.
10. The occupancy ordinance requires a minimum of 200 square feet of space for the first occupant and 150 square feet of space for each additional occupant, and it excludes certain portions of a dwelling in this space calculation formula. The ordinance is unduly restrictive -- more restrictive than model codes utilized in most areas of the country -- and most applications do not permit the normal use for which a dwelling was intended. For example, in many applications the Town does not permit two persons for each bedroom in a dwelling.
11. While the ordinance was enacted in December of 1991, the Town did not begin to enforce the ordinance strictly until November of 1992. The occupancy requirements are enforced only against persons purchasing residential dwellings within the boundaries of the Town. The purpose and effect of this enforcement scheme is to ensure that the restrictive standard is not applied to existing residents of the Town, a majority of whom are non-Hispanic and white.
12. Through the enforcement of the occupancy ordinance, the defendants have begun to achieve their objective of preventing, or discouraging, Hispanic families with children from becoming residents of the Town. The defendants have refused to issue the necessary approval for occupancy of dwellings by a number of Hispanic families who have contracted to purchase dwellings within the Town. In each instance, the defendants relied on the occupancy ordinance to exclude a Hispanic family with children even though the dwelling was large enough to accommodate the family. On information and belief, all or nearly all of the potential purchasers who have been prohibited from purchasing a dwelling in the town because of this ordinance have been Hispanic families with children.
13. The defendants' enactment and enforcement of the occupancy standards as described above has made housing unavailable because of national origin, and also constitutes discrimination in terms,

conditions, or privileges of sale or rental of dwellings because of national origin, in violation of Section 804(a) and Section 804(b) of the Fair Housing Act, 42 U.S.C. {3604(a) and 42 U.S.C. {3604(b).

14. The defendants' enactment and enforcement of the occupancy standards as described above has made housing unavailable because of familial status, and also constitutes discrimination in terms, conditions, or privileges of sale or rental of dwellings because of familial status, in violation of Section 804(a) and Section 804(b) of the Fair Housing Act, 42 U.S.C. {3604(a) and 42 U.S.C. {3604(b).
15. The conduct of the defendants constitutes:
 - a. A pattern or practice of resistance to the full enjoyment of rights secured by Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act), as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601, et seq.; and
 2. A denial to a group of persons of rights granted by Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act), as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601, et seq., which denial raises an issue of general public importance.
16. The defendants' discriminatory practices have caused injury to persons seeking to purchase, sell, or occupy residential dwellings within the Town and also to real estate professionals involved with such transactions. Such aggrieved persons are entitled to be compensated by defendants for the injuries caused by the discriminatory conduct.
17. The defendants' conduct was intentional, willful, and taken in disregard of the rights of others.

WHEREFORE, the United States prays that the Court enter an ORDER that:

1. Declares that the discriminatory practices of the defendants as described herein violate the Fair Housing Act, as amended, 42 U.S.C. §§ 3601, et seq.;
2. Enjoins the defendants, their agents, employees, and successors, and all other persons in active concert or participation with them from continuing to discriminate on account of national origin or familial status in violation of 42 U.S.C. §§ 3601, et seq.;
3. Requires such actions by the defendants as may be necessary to restore all persons aggrieved by defendants' discriminatory housing practices to the position they would have occupied but for defendants' discriminatory conduct;
4. Awards such damages as would fully compensate aggrieved persons for damages caused by the defendants' discriminatory conduct, pursuant to 42 U.S.C. § 3614(d)(1)(B);
5. Awards each person aggrieved by defendants' discriminatory housing practices punitive damages because of the intentional and willful nature of the defendants' conduct, pursuant to 42 U.S.C. § 3614(d)(1)(B); and
6. Assesses a civil penalty against the defendants in an amount of money authorized by 42 U.S.C. § 3614(d)(1)(C), in order to vindicate the public interest.

The United States further prays for such additional relief as the interests of justice may require.

Janet Reno
Attorney General

James P. Turner
Acting Assistant Attorney General

Paul F. Hancock
Chief, Housing and Civil Enforcement Section

Isabelle M. Thabault
Cheryl L. Ziegler
David G. Lubben
Attorneys
Housing and Civil Enforcement Section
Civil Rights Division
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COUNCIL BILL NO.

ORDINANCE NO.

AN ORDINANCE REGULATING RENTAL HOUSING; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT; AND SETTING AN EFFECTIVE DATE.

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. Title. This Ordinance shall be known as the "Woodburn Rental Housing Ordinance."

Section 2. Legislative Findings.

A. The City Council finds that a safe, decent place to live is a basic necessity that enables families to meet other basic necessities and save for their future

B. The City Council further finds there are a growing number of residential rental properties within the City, and that many of these properties are in a declining state of maintenance.

C. The City Council further finds that inadequate maintenance directly affects the health, life, safety and welfare of the residents of the City of Woodburn and impacts the health and vitality of the surrounding neighborhood and the City as a whole.

D. The City Council further finds that it is necessary to adopt this Ordinance so that rental housing in the City is maintained in a good, safe, and sanitary condition and does not create a nuisance or blighted conditions to its surroundings.

E. The City Council further finds that the adoption of this Ordinance is a reasonable method of insuring suitable housing, safe and viable neighborhoods and a healthy City.

Section 23. Purpose. The purpose of this Ordinance is to provide minimum habitability criteria to safeguard health, property and public welfare of the owners, occupants and users of residential rental buildings.

Section 34. State of Oregon Residential Landlord and Tenant Act. This Ordinance is intended to supplement and not conflict with the habitability standards of the Oregon Residential Landlord and Tenant Act.

Section 45. Scope.

A. Except as described below, these standards shall apply to rental housing located within the City.

B. Notwithstanding subsection ~~4A-5A~~ and consistent with the Oregon Residential Landlord and Tenant Act, the following are exempted from the application of this Ordinance:

1. Hotels, motels and lodging houses;
2. Hospitals and other medical facilities;
3. Nursing care facilities as defined in the Woodburn Development Ordinance;
4. Group homes and group care facilities as defined in ORS Chapter 443; and
5. ~~Manufactured dwellings located in a manufactured dwelling park that existed on the date of this ordinance.~~

Section 6. Complaints. A complaint under this Ordinance shall be submitted in writing on a form provided by the City and shall include the following:

- A. The name of the person filing the complaint.
- B. The name of the landlord.
- C. The address of the alleged violation.
- D. A description of the alleged violation.
- E. Proof that reasonable efforts were made to provide the landlord with written notice of the alleged violation.

Section 57. Definitions. For purposes of this Ordinance, the following definitions shall apply:

Apartment House. Any building or portion of a building containing three or more dwelling units, which is designed, built, rented, leased, let, or hired out to be occupied for residential living purposes.

Approved. Acceptable to the code official or authority having jurisdiction.

Building Code. The currently adopted edition of the State of Oregon Structural Specialty Code and Residential Specialty Code.

Dwelling Unit. A single unit providing complete independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking, and sanitation. For purposes of this Ordinance, where portions of a residential building are occupied under separate rental agreements, but tenants share eating, cooking, and/or sanitation facilities, each portion under a separate rental agreement shall be considered a dwelling unit.

Enforcement Officer. A police officer, code enforcement officer or other city official authorized by the City Administrator to enforce this Ordinance.

Habitable Room. Any room used for sleeping, living, cooking or dining purposes, but excluding closets, pantries, bath or toilet rooms, hallways, laundries, storage spaces, utility rooms and similar spaces.

Landlord. The owner, lessor, or sublessor of a dwelling unit.

Mechanical Code. The currently adopted edition of the State of Oregon Mechanical Specialty Code.

Owner includes a mortgagee in possession and means one or more persons, jointly or severally, in whom is vested: (a) all or part of the legal title to property; or (b) all or part of the beneficial ownership and a right to present use and enjoyment of the premises.

Person. Any natural person, firm, partnership, association or corporation.

Rental Agreement. All agreements, written or oral, concerning the use and occupancy of a dwelling unit and premises.

Rental Housing. A dwelling unit which is the subject of a rental agreement.

Section 68. Standards.

A. Structural Integrity. Roofs, floors, walls, foundations and all other structural components shall be capable of resisting any reasonable stresses and loads to which these components may be subjected. Structural components

shall be of materials allowed or approved at the time of construction by the Building Code.

B. Plumbing.

1. Plumbing systems shall be installed and maintained in a safe and sanitary condition and shall be free of defects and leaks.

2. Every plumbing fixture or device shall be properly connected to a public or an approved private water system and to a public or an approved private sewer system.

3. All sinks, lavatory basins, bathtubs and showers shall be supplied with both hot and cold running water and have a water pressure of at least 15 psi. Every dwelling unit shall be supplied with water heating facilities which are installed in an approved manner, properly maintained, and properly connected with hot water lines to all required sinks, lavatory basins, bathtubs and showers. Water heating facilities shall be capable of heating water enough to permit an adequate amount of water to be drawn at every required facility at a temperature of at least 120 degrees at any time needed.

4. In every dwelling unit all plumbing or plumbing fixtures shall be:

(a) Properly installed, connected, and maintained in good working order;

(b) Capable of performing the function for which they are designed; and

(c) Installed and maintained so as to prevent structural deterioration or health hazards.

C. Heating.

1. Adequate heating facilities which conform to the applicable law at the time of installation and maintained in good working order~~There shall be a permanently installed heat source with the ability to provide a room temperature of 68 degrees Fahrenheit three feet above the floor, measured in the approximate center of the room, in all habitable rooms.~~

2. ~~All heating devices or appliances shall be of an approved type.~~

32. Portable heating devices may not be used to meet the dwelling heat requirements of this Code.

~~4. Ventilation for fuel-burning heating appliances shall be as required by the Mechanical Code.~~

D. Weatherproofing.

1. Roofs, exterior walls, windows and doors shall be maintained to prevent water leakage into living areas which may cause damage to the structure or its contents or may adversely affect the health of an occupant.

2. The roof shall be structurally sound, tight, and have no defects which might admit rain. Roof drainage shall be adequate to prevent rainwater from causing dampness in the walls or interior portion of the building and shall channel rainwater in an approved manner to an approved point of disposal.

E. Chimneys. Every masonry, metal, or other chimney shall remain adequately supported and free from obstructions and shall be maintained in a condition which ensures there will be no leakage or backup of noxious gases. Every chimney shall be reasonably plumb. Loose bricks or blocks shall be rebonded. Loose or missing mortar shall be replaced. Unused openings into the interior of the structure must be permanently sealed using approved materials.

F. Stairs and Porches. Every stair, porch, and attachment to stairs or porches shall be so constructed as to be safe to use and capable of supporting the loads to which it is subjected and shall be kept in sound condition and good repair, including replacement as necessary of flooring, treads, risers, and stringers that evidence excessive wear and are broken, warped, or loose.

G. Handrails and Guardrails. Every handrail and guardrail shall be firmly fastened, and shall be maintained in good condition, capable of supporting the loads to which it is subjected, and meet the following requirements:

1. Handrails and guardrails required by building codes at the time of construction shall be maintained or, if removed, shall be replaced.

2. Where not otherwise required by original building codes, exterior stairs of more than three risers which are designed and intended to be used as part of the regular access to the dwelling unit shall have handrails. Interior stairs of more than three risers shall have handrails. When required

handrails are installed they shall be installed so that they meet the applicable building code requirements in effect at the time this work is being performed.

3. Where not otherwise required by original building codes, porches, balconies or raised floor surfaces located more than 30 inches above the floor or grade below shall have guardrails. Open sides of stairs with a total rise of more than 30 inches above the floor or grade below shall have guardrails. When required guardrails are installed, they shall be installed so that they meet the applicable building code requirements in effect at the time this work is being performed.

H. Windows.

1. Every habitable room shall have at least one window facing directly to an exterior yard or court. The minimum total glass area for each habitable room shall be 6.8 percent of the room's floor area, except for basement rooms where the minimum shall be 5 percent. The exception for basement windows shall not apply where any occupancy has been changed or increased contrary to the provisions of this Ordinance.

2. Every habitable room shall have at least one window that can be easily opened or another approved device to adequately ventilate the room. Except where another approved ventilation device is provided, the total openable window area in every habitable room shall be equal to at least one-fortieth of the area of the room.

3. Every bathroom and toilet compartment shall be provided with light and ventilation, except that no window shall be required in bathrooms or toilet compartments equipped with a ventilation system.

4. Each sleeping room shall be provided with a window for emergency escape or rescue. The window shall have a sill height of no more than 44 inches above the floor or above an approved, permanently installed step. The step must not exceed 12 inches in height and must extend the full width of the window. The top surface of the step must be a minimum of six feet from the ceiling above the step.

5. Windows in sleeping rooms that are provided to meet emergency escape or rescue requirements shall have a minimum net clear opening of at least 20 inches wide, at least 22 inches high, and, if constructed after July 1, 1974, at least five square feet in area.

6. Every window required for ventilation or emergency escape shall be capable of being easily opened and held open by window hardware.

Any installed storm windows on windows required for emergency escape must be easily openable from the inside without the use of a key or special knowledge or effort.

7. All windows within ten (10) feet of the exterior grade that open must be able to be securely latched from the inside as well as be openable from the inside without the use of a key or any special knowledge or effort. This same requirement shall apply to all openable windows that face other locations that are easily accessible from the outside, such as balconies or fire escapes, regardless of height from the exterior grade.

8. Every window shall be substantially weather-tight, shall be kept in sound condition and repair for its intended use, and shall comply with the following:

(a) Every window sash shall be fully supplied with glass windowpanes or an approved substitute without open cracks and holes.

(b) Every window sash shall be in good condition and fit weather-tight within its frames.

(c) Every window frame shall be constructed and maintained in relation to the adjacent wall construction so as to exclude rain as completely as possible and to substantially exclude wind from entering the dwelling.

I. Doors.

1. Every dwelling or dwelling unit shall have at least one door leading to an exterior yard or court, or in the case of a two-family dwelling or apartment, to an exterior yard or court or to an approved exit. All such doors shall be openable from the inside without the use of a key or any special knowledge or effort. All screen doors and storm doors must be easily openable from the inside without the use of a key or special knowledge or effort.

2. In apartment houses, exit doors in common corridors or other common passageways shall be openable from the inside with one hand in a single motion, such as pressing a bar or turning a knob, without the use of a key or any special knowledge or effort.

3. Every door to the exterior of a dwelling unit shall be equipped with a lock designed to discourage unwanted entry and to permit opening from the inside without the use of a key or any special knowledge or effort.

4. Every exterior door shall comply with the following:

(a) Every exterior door, door hinge, door lock, and strike plate shall be maintained in good condition.

(b) Every exterior door, when closed, shall fit reasonably well within its frame and be weather-tight.

(c) Every doorframe shall be constructed and maintained in relation to the adjacent wall construction so as to exclude rain as completely as possible, and to substantially exclude wind from entering the dwelling.

5. Every interior door and doorframe shall be maintained in a sound condition for its intended purpose with the door fitting within the doorframe.

J. Smoke Detectors. Smoke detectors sensing visible or invisible particles of combustions or alarms shall be required in all buildings where a room or area therein is designated for sleeping purposes either as a primary use or use on a casual basis. Smoke detectors or alarms shall be installed in each sleeping room or area, in the immediate vicinity of the sleeping rooms and on each additional story of the dwelling, including basements and attics with habitable space. All detectors or alarms shall be approved, shall be installed in accordance with the manufacturer's instructions, shall plainly identify the testing agency that inspected or approved the device, and shall be operable.

K. Display of Address Number. All dwelling units shall have address numbers posted in a conspicuous place so they ~~may~~can be read from the ~~listed~~ street or public way. ~~The a~~Address numbers posted shall be the same as ~~the number those appearing~~listed on the County Assessment and Taxation Records for the property. Units within apartment houses shall be clearly numbered, or lettered, in a logical and consistent manner.

L. Overcrowding. No dwelling unit shall be permitted to be overcrowded. A dwelling unit shall be considered overcrowded if there are more residents than one resident, plus one additional resident for every 150 square feet or portion thereof of floor area of the habitable rooms in the dwelling unit.

Section 79. Abatement Notice. Whenever a violation of this Ordinance is found to exist within the corporate limits of the city and the enforcement officer elects to proceed by abatement, the enforcement officer shall give written notice, by a type of mail that requires a signed receipt, to the landlord of the property upon which the violation exists.

Section 810. Abatement. Upon receipt of the notice that a violation exists, the landlord shall have thirty (30) days to abate the violation.

Section 911. Notice Requirements. The notice to abate the violation shall contain the following:

- A. An order to abate the violation within thirty (30) days;
- B. The location of the violation;
- C. A description of what constitutes the violation;
- D. A statement that if the violation is not abated within the prescribed time, the City will seek civil penalties under this Ordinance; and
- E. A statement that a person who is dissatisfied with the abatement notice has the right to judicial review under this Ordinance.

Section 1012. Request for Judicial Review. The landlord may file a written request for judicial review in the Woodburn Municipal Court within ten (10) days of the date that the notice to abate was mailed.

Section 1113. Requirements for Request. The request for judicial review need not be in any particular form, but should substantially comply with the following requirements:

- A. Be in writing;
- B. Identify the place and nature of the alleged violation;
- C. Specify the name and address of the landlord seeking judicial review; and
- D. Identify the enforcement officer alleging that a violation exists.

A copy of the ~~notice~~request for judicial review shall be served on the ~~enforcement officer~~Woodburn City Attorney's office.

Section 1214. Scheduling of Judicial Review.

- A. The judicial review hearing shall be held within ten (10) days after the request for judicial review is made. The day may be postponed by:

1. Agreement of the parties; or
2. Order of the court for good cause.

B. After a hearing is scheduled, the court shall promptly notify the parties as to the time and location of the hearing.:

- ~~1. The landlord; and~~
- ~~2. The enforcement officer.~~

Section 1315. Judicial Review Hearing. At the judicial review hearing the City and the landlord shall have the right to present evidence and witnesses and to be represented by legal counsel at their own expense. After due consideration of pertinent information and testimony, the court shall make its findings. The findings shall be based on substantial evidence and shall be final.

Section 1416. Notification of Violation. The landlord shall be notified by a type of mail that requires a signed receipt postmarked no later than five days after the findings are entered by the court or by personal delivery by a representative of the City. Upon notification of violation, the landlord shall have 30 days to abate the violation.

Section 1517. Enforcement.

A. Inspection and Right of Entry. When necessary to investigate a suspected violation of this Ordinance, the enforcement officer may enter on any site or into any structure open to the public for the purpose of investigation, provided entry is done in accordance with law.

B. Civil Infraction. In addition to, and not in lieu of any other enforcement mechanisms, a violation of any provision of this Ordinance constitutes a Class I Civil Infraction which shall be processed according to the procedures contained in the Woodburn Civil Infraction Ordinance.

C. Civil Proceeding Initiated by City Attorney. The City Attorney, after obtaining authorization from the City Council, may initiate a civil proceeding on behalf of the city to enforce the provisions of this Ordinance. This civil proceeding may include, but is not limited to, injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin or abate any violations of this Ordinance.

Section 18. Prohibition on Retaliatory Conduct by Landlord. No landlord may terminate a tenancy, increase rent, decrease services or refuse to renew a lease or tenancy because a tenant has in good faith:

- A. Filed a complaint under this Ordinance; or
- B. Requested the landlord to make repairs to a premises as required by this Ordinance; or
- C. Provided information or testified in any proceeding involving the enforcement of this Ordinance.

Section 1619. Separate Offenses. Each day during which a violation of this Ordinance continues shall constitute a separate offense for which a separate penalty may be imposed.

Section 1720. Fee.

A. For the purpose of offsetting costs to the City associated with the enforcement of this Ordinance, the City Council may impose an annual fee is imposed by the City Council for each dwelling unit covered by a rental agreement and include the fee in the Woodburn Master Fee Schedule.

B. The fee for year 2007 2008 shall be \$_____ per dwelling unit.

C. This fee shall be evaluated on an annual basis and may be adjusted by the City Council and included in the Woodburn Master Fee Schedule based upon the costs incurred by enforcement and administration of this Ordinance.

D. The following unit types, while subject to the standards, enforcement procedures, and other requirements established in this Ordinance, shall be exempt from fee payment requirements:

1. Rentals with a recorded deed restriction requiring the units to be rented affordably to households at or below 50% of the Area Median Income;
2. Rentals under contract with a public agency that requires the rental to be inspected at least annually and verifies that the dwelling is rented to a low income household; and
3. Rentals designated as senior or disabled housing by a public agency.

| EC. The landlord is responsible for paying the annual fee upon written request.

| FD. The failure of the landlord to pay the fee constitutes a violation of this Ordinance.

| **Section 1821.** **Severability.** If any section, paragraph, subdivision, clause, sentence, or provisions of this Ordinance shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of the title, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it being the intent of the governing body to enact the remainder of this Ordinance notwithstanding the parts to be declared unconstitutional and invalid.

| **Section 1922.** **Effective Date.** This Ordinance shall be effective on ____.

Approved as to form: _____
City Attorney Date

Approved: _____
Kathryn Figley, Mayor

Passed by the Council _____

Submitted to the Mayor _____

Approved by the Mayor _____

Filed in the Office of the Recorder _____

ATTEST: _____
Mary Tennant City Recorder
City of Woodburn, Oregon

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0001 **DATE. COUNCIL CHAMBERS, CITY HALL, CITY OF WOODBURN, COUNTY OF MARION, STATE OF OREGON, JANUARY 14, 2008.**

CONVENED. The meeting convened at 7:00 p.m. with Mayor Figley presiding.

0010 **ROLL CALL.**

Mayor	Figley	Present
Councilor	Bjelland	Present
Councilor	Cox	Present
Councilor	Lonergan	Present
Councilor	McCallum	Present
Councilor	Nichols	Present
Councilor	Sifuentez	Present (7:01 pm)

Staff Present: City Administrator Brown, City Attorney Shields, Assistant City Administrator Stevens, Police Chief Russell, Acting Public Works Director Rohman, Community Development Director Allen, Finance Director Gillespie, Community Services Director Row, Recreation Services Manager Spence, City Recorder Tennant

0030 **ANNOUNCEMENTS.**

A) Woodburn Public Library will be closed on January 18, 2008 for in-house training.

B) Martin Luther King Holiday: City Hall and the Library will be closed on Monday, January 21st, in observance of the holiday. The Aquatic Center will be open with regular hours.

C) City Council Workshop regarding the housing code will be held on January 28, 2008, 6:00 p.m., in the City Hall Council Chambers.

0052 City Administrator Brown introduced Terrie Stevens as the City's new Assistant City Administrator who began working for the City on January 2, 2008. He stated that her most recent position was a Human Resource Manager for the County of Riverside, California, however, she also has five years of general management experience in the health care industry and two years as a consultant. With her background in human resources, she will be an excellent addition to the City staff.

Mayor Figley extended her welcome to Ms. Stevens and encouraged the Councilors to meet with her whenever they have some time available.

0096 **PRESENTATION: COMMUNITY CENTER FEASIBILITY STUDY.**

Community Services Director Row stated that the City has been working on a new Community Center for several years and bond issues, both unsuccessful, had been before the voters in 2000 and 2002. Eventually the condition of the community center building on Third Street had deteriorated to the point that a decision was made in 2003 to close the

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Center and the building was sold in 2005. In 2006, the City hired Carleton Hart Architecture to develop a Community Center feasibility study and they are in attendance at this meeting to share the results of their work.

Bill Hart introduced Julie Proksch, Project Manager, and Paul Falsetto, Architect, who have been working closely with staff on the feasibility study relating to the building designs and operation of a Recreation Center and an Arts and Cultural Community Center.

Julie Proksch stated that the study methodology included (1) a research phase involving a task force, public input, and looking at similar facilities; (2) a program phase which involved development of the types and sizes of the spaces; (3) performing a condition assessment by evaluating the existing Aquatic Center for the purpose of expanding the facility to house the proposed Recreation Center; (4) a site selection process for the Arts & Cultural Community Center whereby site criteria was established and possible sites evaluated based on the criteria; (5) a conceptual design phase involved development of floor plans and elevations for the two facilities with the Task Force assisting in the evaluation of the size and configuration of the buildings; and (6) conducting a financial analysis on construction cost estimates as well as forecasting operating costs and revenues. A second public meeting was held to present the plans as well as the financial information to gain additional public input. She reviewed the project goals which included the ability to provide facilities for all members of the community, strive to have projects become civic landmarks, make every effort to embrace the highest standards of green building practices to become gold leaf certified, encourage low operating and maintenance costs, and look at project financing options to avoid going through the bond process.

Paul Falsetto stated that the proposed Recreation Center would be an expansion to the Aquatic Center and would take the existing front portion of the building (approximately 5,000 sq. feet) and expand the area to approximately 25,000 sq. feet. The new addition would be to the north and east portion of the existing building resulting in the relocation of the tennis court and would include a gym, fitness classrooms, weight room, activity room, locker room expansions, and lobby. The parking area would be expanded to meet the needs of the new building. Total estimated cost for the building, site work, fees and permits is \$8,282,441. Annual operating costs were forecasted at \$825,000 with revenues forecasted at \$312,000 thereby requiring the City to subsidize the operating costs by approximately \$513,856 annually (62%). It was noted that the costs to operate the Aquatic Center are not part of the Recreation Center costs. In regards to the Arts & Cultural Community Center, the building is proposed to be located in Legion Park adjacent to Park Avenue. This building would include an assembly room with a commercial kitchen and storage areas, classrooms, teen room, senior lounge, dance room, changing rooms, and staff areas. He stated that they had evaluated six sites for this building and it was determined that Legion Park would be the best location based on the following criteria: (1) cost and ownership of the site, (2) size of the site, (3) potential for outdoor spaces, and (4) solar access. He reviewed the conceptual design of the facility

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and stated that land not currently in use south of the new police facility could become an expansion of the existing park thereby moving the existing playing field to the west of the proposed center. The proposed building is approximately 30,000 sq feet with a portion of the building being two stories. The total estimated construction cost for this facility is \$8.8 million. In regards to forecasting operating costs, it is estimated that annual expenses would be \$689,782 and revenues would be \$242,854 leaving a cost deficit to the City in the amount of \$446,928 (65% subsidy needed to meet operating costs). In regards to funding sources for these projects, possible grant funding sources include M.J. Murdoch Charitable Trust, Meyer Memorial Trust, Oregon Community Fund, Ford Family Foundation, Collins Foundation, and individual donors. Non-grant funding sources include the USDA Rural Development program, Special Public Works Funds, Community Development Block Grant program, Renewable Energy Feasibility Fund, and development impact fees. In their analysis, it is hoped that one or all of the grant sources would provide \$500,000 towards the direct cost for construction but there will be a challenge to the City in that these grant sources do not tend to grant a large amount of funds to municipalities. Study conclusions are as follows: (1) completing two \$8 million projects without a public bond would be a tremendous challenge to finance; (2) The Arts & Cultural Community Center could be a distant-future project since the recent project at Wellspring (The Woodlands) is fulfilling a current void in meeting space and there will be a need to replace the soccer field if the Center is located at the proposed location in Legion Park; (3) Recreation Center would add value to the existing aquatics facility; and (4) the Recreation Center could incorporate some program elements from the Arts & Cultural Community Center by shifting some of the smaller elements from the Community Center into the Recreation Center.

0793 Councilor McCallum questioned if the Recreation Center could be a phased project since he did not recall having a gym as part of the project.

Mr. Falsetto felt that it could be a phased project with the gym as a separate phase since it is a large volume of space.

Councilor McCallum questioned the vision as to the Center's operating hours and programs.

Mr. Falsetto stated that they had discussed this issue with staff and the consensus was that there would be good solid use throughout the day by a variety of groups. Gymnasiums appear to be under high demand and they feel that the fitness classroom tends to have three distinct waves of use - the early morning crowd, lunch crowd, and after work crowd. With a concerted effort by the City to increase the number of recreation programs, they feel that the building will be effectively used throughout the day and throughout the year.

Councilor McCallum stated that he is concerned about the difficulty in passing bonds and there is a need to look at other financial sources to fund the construction costs. He stated that a Community Center adds so much to community life and livability but funding is an issue within our community.

Councilor Bjelland stated that the forecast of operating cost gave the annual operating

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costs for the facility but did not take into account any financing associated with the construction of the project which could be a fairly significant amount of money since grant sources are fairly limited.

Community Services Director Row stated that he was surprised as to how expensive these facilities were from a construction cost and from an operating cost standpoint. Staff was looking at these numbers very conservatively and did not take into consideration those costs the City is already incurring at the Aquatic Center to operate the existing 5,000 square foot lobby area which would be incorporated into the 25,000 square foot expansion. From an operational standpoint, a lot of programs that would be operated at the Recreation Center already exist and are being subsidized, however, the new Center will provide an opportunity for expanded programming.

1050 CHAMBER OF COMMERCE REPORT.

Don Judson, Interim Executive Director, provided information on the following upcoming Chamber events:

- 1) Forum Lunch will be held at Country Meadows on January 16, 2008 with Mayor Figley to provide attendees with the "State of the City" address;
- 2) Chamber Annual Dinner will be held on January 24, 2008, at Country Meadows with the gavel being passed from past President Walt Blomberg to their new President Deb Yager along with presentations of annual awards;
- 3) Greeter's Program will be held on January 18th at Chemeketa Community College; and
- 4) Greeter's Program will be held on January 25th at Cascade Park Retirement Community.

Mr. Judson also stated that progress is being made on the Woodburn Area Visitor's Association (WAVA) which would involve contracting out tourism as a project thereby keeping operating revenues and expenses for tourism separate from the Chamber. He has met with, and received a proposal from, the Salem Convention Visitor's Association. A meeting to review the proposal and further discuss the concept to separate out the tourism project will be held on Tuesday, January 22nd. He reiterated that the Chamber would be operating based on revenues from dues and events while WAVA, if created, would operate on revenues from Transient Occupancy Tax (TOT) funds and memberships.

1167 WOODBURN SCHOOL DISTRICT REPORT.

Walt Blomberg, School Superintendent, stated that the School District has been doing some long-term planning and one of the projects being worked on now is Strategic Planning. This is the time for the 10-year renewal and a Core Planning Team has met to analyze the last plan, review results, and work on the next steps for the district. Action Teams are looking more thoroughly at each of the proposed strategies for the future. The Core Planning Team will meet on Wednesday, January 16th, to talk about some of the work of the Action Teams and try to formulate a plan that will take the School District into the next 10 years. One of the key issues facing the School District is their future need for facilities. School District student enrollment has increased by 1,600 over the last

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10 years. The last schools were built in 1997 with those schools being filled by 1999 and modulars were installed at each of the campuses as a short term solution. About four years ago, they began building annexes which has resulted in borrowing money with loan payback being taken out of their reserve accounts. Over the last ten years, over \$6 million has been paid out of operational funds for modulars and payments on the annexes. In addition, the District made a commitment to the community to maintain the facilities and over \$9 million has been invested in making sure that existing facilities had capital improvements made as needed. The School District is now at a point where they do not have the resources to continue maintaining facilities or adding space as they have had over the last ten years. With the City's submittal of an urban growth boundary expansion, he is concerned about providing additional space for the next 1,600 students and the only alternative he can see at this time is submitting a bond issue to the voters that would add school facilities. He agreed that the community deserves some facilities like the Recreation Center and Arts and Cultural Community Center, however, he requested that the City support a bond issue that the School District will eventually propose since all of these facilities are part of making the community livable.

1400 Councilor McCallum stated that the School District needs to be congratulated in performing facility maintenance projects as needed rather than deferring the projects which ultimately cost the district more money to make the repairs. He also stated that a recent report in the Educational Weekly publication rated Oregon very low citing the lack of a mentor program for new teachers. However, it had been mentioned previously by Superintendent Blomberg that Woodburn does have a mentoring program in place and he extended his congratulations to the School District for taking a proactive approach to implement a mentoring program.

Superintendent Blomberg stated that the District hired a significant number of new staff this year and this type of program helps the teachers acclimate to the district, know the district's priorities, and answers their questions.

Councilor Cox questioned if the School District has a ballpark figure on a bond measure for new school facilities.

Superintendent Blomberg stated that he does not have a figure at this time to announce but they hope to have a figure by the end of March. The last bond issue was for \$40 million and was defeated by the voters. The dilemma is whether to place a bond issue before the voters that would provide funding for additional facilities to handle growth over the next 10 years or a lesser amount to fund facilities needed over the next 4 or 5 years. He also stated that they are talking to a consultant but no one has been hired as of yet to assist with this decision making process.

1596 CONSENT AGENDA.

A) approve the City Council minutes of December 10, 2007;

B) approve the Council workshop minutes of December 10, 2007;

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- C)** accept the Planning Commission draft minutes of December 13, 2007;
- D)** receive the Building Activity report for December 2007;
- E)** receive the Planning Tracking sheet dated January 9, 2008;
- F)** receive the Claims for December 2007;
- G)** receive the Community Services Department Statistics for November 2007;
- H)** receive the Audit Reports for fiscal year 2006-2007 (City and Urban Renewal District financial statements);
- I)** City Attorney Shield's reappointment to League of Oregon Cities (LOC) Legal Advisory Committee;
- J)** receive report on Speed Zone change on Highway 211 east of Highway 99E; and
- K)** receive report on Highway 214 / Settlemier Avenue / Boones Ferry Road street improvement update.

Councilor McCallum requested a verbal report on the audit process of the City's financial records.

Finance Director Gillespie stated that his staff maintains the accounting records for all City funds which includes producing monthly financial statements to departments, year end financial statements, ad hoc reports to departments, Budget Committee mid-year budget review, and a full audit at year-end completed by an outside audit firm. The audit firm prepares combined statements for the various funds and disclosure statements so that the reader understands what is in the numbers. The financial statements and audit opinion are reviewed by staff and once finalized, the audit report is filed with the Secretary of State. He also addressed the importance of internal control to reduce the risk of potential embezzlement of funds which includes, but not limited to, hiring the right people, having a separation of duties, review of financial transactions at several levels and across several functions, and an annual audit of all City funds by an outside firm.

Councilor Cox stated that the audit is a financial audit and does not indicate any mismanagement of funds or malfeasance by anyone. In fact, it is an absolutely sterling audit report as has been reported in the past which staff should be very proud of.

Councilor McCallum requested a summary of the Highway 214 / Settlemeir Avenue / Boones Ferry Road project update.

Acting Public Works Director Rohman stated that the State funding assistance for this project came from federal program dollars and ODOT recently informed the City that they had received approval from the Department of Justice on the scope of work agreement for the project construction engineering. This project has been delayed for a number of reasons and ODOT has now informed the City that the bid opening date is now scheduled for April 10, 2008. The construction project should commence about 60-75 days after bid award and will take about 90 days to complete. It is anticipated that the majority of the project will be completed by late summer.

MCCALLUM/NICHOLS... adopt the Consent Agenda as presented. The motion passed unanimously.

2110 COUNCIL BILL NO. 2695 - ORDINANCE DELEGATING TO THE MUNICIPAL

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**JUDGE THE AUTHORITY TO APPOINT PRO-TEM MUNICIPAL JUDGES
PURSUANT TO THE PROCEDURES PROVIDED IN THIS ORDINANCE.**

Councilor Sifuentez introduced Council Bill No. 2695. Recorder Tennant read the two readings of the bill by title only since there were no objections from the Council. On roll call vote for final passage, the bill passed unanimously. Mayor Figley declared Council Bill No. 2695 duly passed.

**2153 COUNCIL BILL NO. 2696 - RESOLUTION ESTABLISHING A PUBLIC
HEARING DATE FOR LEVYING THE FINAL ASSESSMENT OF COSTS FOR
THE IMPROVEMENT OF COUNTRY CLUB ROAD BETWEEN BOONES
FERRY ROAD AND ASTOR WAY.**

Council Bill No. 2696 was introduced by Councilor Sifuentez. The bill was read by title only since there were no objections from the Council. On roll call vote for final passage, the bill passed unanimously. Mayor Figley declared Council Bill No. 2696 duly passed.

**2201 COUNCIL BILL NO. 2697 - RESOLUTION ESTABLISHING A PUBLIC
HEARING DATE FOR LEVYING THE FINAL ASSESSMENT COSTS FOR THE
IMPROVEMENT TO WEST LINCOLN STREET BETWEEN CASCADE DRIVE
AND LEASURE STREET.**

Councilor Bill No. 2697 was introduced by Councilor Sifuentez. Recorder Tennant read the bill by title only since there were no objections from the from the Council. On roll call vote for final passage, the bill passed unanimously. Mayor Figley declared Council Bill No. 2697 duly passed.

**2227 OLCC NEW OUTLET APPLICATION: MARISCOS EL SARANEADO, 1032
NORTH PACIFIC HIGHWAY.**

A limited on-premises sales liquor license application was submitted by Mariscos El Saraneado LLC , DBA Mariscos El Saraneado, due to a change in the business partnership at this location which is currently licensed under the name of Cactus Grill Taqueria.

BJELLAND/LONERGAN... recommend to OLCC approval of a liquor license application for Mariscos El Saraneado. The motion passed 5-1 with Councilor Nichols voting nay.

**2287 OLCC NEW OUTLET APPLICATION: DEDE'S DELI, 1537 MT. HOOD
AVENUE, SUITE 101.**

A limited on-premises sales liquor license application was submitted by CJ Eateries LLC, DBA Dede's Deli, for a new establishment at 1537 Mt. Hood Avenue.

BJELLAND/LONERGAN... recommend to OLCC approval of a liquor license

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application for Dede's Deli. The motion passed 5-1 with Councilor Nichols voting nay.

2307 POSITION UPGRADE: WATER DIVISION UTILITY WORKER II TO UTILITY WORKER III.

BJELLAND/SIFUENTEZ... authorize the upgrade of a Water Division Utility II position to a Utility III position.

Councilor Cox stated that the staff report explains clearly why the cross-connection program needs to be moved to the Water Division but he did not understand as to why the position upgrade needs to be made.

Acting Public Works Manager Rohman stated that the Utility Worker III job description includes the cross connection program as an assigned job duty. If the cross connection program was assigned to a Utility Worker II, then the City would be required to pay the employee for working out of class.

The motion passed unanimously.

2380 REQUEST FOR NO PARKING ON THIRD STREET NORTH OF HARRISON STREET.

BJELLAND/LONERGAN... authorize No Parking on the east side of Third Street from Harrison to the north side of 950 Third Street.

Councilor Lonergan questioned if staff looked at limited parking during Church hours versus a 24-hour No Parking requirement since there are several homes in the area that will not be able to park on the street in front of their homes.

Acting Public Works Director Rohman stated that this is a narrow street and No Parking on a 24-hour basis facilitates the flow of traffic at times when other functions are being held at the Church facility. Affected homeowners that have talked to staff about the problem are aware of the proposed solution.

The motion passed unanimously.

2450 DRAFT ANIMAL CONTROL ORDINANCE.

Councilor Cox felt that a workshop would be the next step for the Council to follow in order to obtain public input on the draft ordinance. He stated that he had reviewed the draft ordinance and did not see any particular problem with the language but would like to hear comments from the public before a final document is considered for adoption.

Administrator Brown stated that he had planned on making public announcements over the radio stations in addition to using the WCAT scroller, City website, water bill mailer, and newspaper. He suggested that the workshop be held on an evening other than a regular meeting night. Since members of the community will be interested in seeing a draft document before the workshop, he questioned if the Council had any specific changes that they would like to make to the draft document before it is provided to the public for review.

Councilor Cox stated that he did not see anything in the draft document that he would like deleted at this time even though the final document may look slightly different.

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Councilor Bjelland did refer to provisions relating to fowl with chickens and ducks limited to three but no mention of roosters, geese, turkeys, peacocks, or peahens. City Attorney Shields stated that chickens and ducks were brought up before the Council in a previous meeting and all other fowl would not be permitted under the livestock provision. He stated that he would look more closely at the draft language to make sure that it includes a definition for fowl.

Councilor McCallum stated that he has received a couple of complaints regarding cats and he questioned if staff had found any ordinances from other cities regulating cats. City Attorney Shields stated that a number of cities have adopted county ordinance and the only location that he could find mandatory cat licensing is in Multnomah County. The problem with cat licensing is ownership since cats do move around more than dogs and there are no state law provisions about licensing cats whereas there are state law provisions relating to dogs. He also mentioned that Jackson County has a provision that allows for voluntary licensing of cats.

Councilor Cox stated that in a public meeting there will most likely be individuals telling the Council that cats should be prohibited from running at large since cats can be vicious, they defecate in peoples yards and make a mess but that problem will never go away and he does not feel that the prohibition should be put into place.

Councilor McCallum stated that cats do take care of rodents but enforcement could be a problem.

Police Chief Russell stated that they do get calls on feral cats which they have to deal with but they have found that they end up trapping everything but cats.

Mayor Figley stated that a workshop will be scheduled for a date other than a regular Council meeting date.

2946 **PLANNING COMMISSION OR ADMINISTRATIVE LAND USE ACTIONS.**

A) Planning Commission's Approval of Design Review 2007-05 located at 100 Arney Road (Shell Gasoline Station and Market): Request for removal of an existing gas station canopy and replacing it with a smaller canopy. Planning Commission approved the application subject to conditions including upgrading other aspects of the tenant space including parking, landscaping, and signs.

B) Community Development Director's Approval of Zoning Adjustment 2008-01 located at 1613 Umpqua Road: Allows for construction of a 6'x12' bathroom addition to a single-family dwelling in the Retirement Community Single Family Residential (R1S) zone.

Councilor McCallum questioned the Planning Commission's ruling on standing signs at the Shell station and whether or not they are now considered an attachment to the building.

Community Development Director Allen stated that the Shell station, restaurant and hotel are defined as a complex and the complex has a hotel and gas station pole sign even though it is on the property of the hotel. The gas station also has a pole sign on the corner of Arney Road and Highway 219 along with a couple of wall signs. Since the pole sign is

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not on the property of the gas station, the Planning Commission ruled that the pole sign on the corner Arney Road and Highway 219 needed to be eliminated and replaced with a monument sign. In regards to the existing pole sign that is on the hotel property, the internal workings of the sign have been changed so it is just bright red lights and there was no change in the size or location of the pole sign. This type of sign would not be allowed under current ordinance provisions without some variances. No action was taken by the Council to bring these land use actions up for review.

3094 CITY ADMINISTRATOR'S REPORT.

A) City Administrator Brown stated that he has made a Conditional Offer of Employment to an individual for the Public Works Director position and he is waiting to get a contract signed from the applicant before he releases his name. If everything works out, the start date will be February 1, 2008.

B) Community Services Director Jim Row introduced Stu Spence as the City's new Recreation Services Manager. He stated that Mr. Spence's most recent employer was the City of Ellensburg, Washington where he served five years as the Youth and Community Center Coordinator and, prior to that, has had extensive experience in the Seattle area with the Boys and Girls Club.

3130 MAYOR AND COUNCIL REPORTS.

Councilor McCallum requested a progress report on the natural gas line that is trying to go through the City's urban growth boundary expansion area.

Community Development Director Allen stated that there are two projects from two different companies one of which is Oregon LNG and the other is Palomar Gas Transmission Company. The Oregon LNG has verbally informed the City that they will be bypassing the City's urban growth boundary and the proposed urban growth boundary through a north alignment that will stay north of Crosby Road. Palomar Gas Transmission Company has still been providing information to property owners that shows that their alignment would bisect the southwest industrial reserve and the urban growth boundary on the south side of the City. The City has commented on numerous occasions that the Council's intent is for the natural gas line is to stay outside of the urban growth boundary. He stated that he had not heard anything back on either project for over a month but they are still in the pre-application stage with the Federal Energy Regulatory Commission.

Administrator Brown stated that staff had received an e-mail recently from Senator Wyden's office who has been working on trying to get an environmental analysis completed which staff feels would be helpful to the City in the long run since it will give the City other forums to talk about how the gas line within the urban growth boundary would affect the City.

3235 Councilor Bjelland provided a brief report on his presentation to the Oregon Transportation Commission (OTC). He stated that the Commission members congratulated Woodburn on the cooperation we have been providing to ODOT and OTC

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and they were very complimentary on Woodburn's efforts to deal with our transportation issues. He feels that the City now has a good working relationship with OTC members which may not have been the case with some of the previous members. His presentation involved assessing and explaining the situation that Oregon is now experiencing in regards to the tremendous transportation needs that exist and the fact that there is not a good awareness or understanding of these issues by the public or by many legislators. He has been promoting the fact that the Area Commissions on Transportation need to take a more proactive role in putting across to the decision makers the issues that are being faced with the small amount of funding that is available for modernization of the State's transportation infrastructure, the tremendous needs that exist, and need to develop a new financing mechanism to deal with those issues.

Councilor McCallum thanked staff and Police Chief Russell for being able to work with ODOT to get their cooperation in keeping cars off of the ODOT lot adjacent to I-5 in which people were using the lot as a car sales lot.

Councilor Sifuentez stated that she belongs to a Committee that is getting ready to celebrate Oregon's 150th birthday in 2009 and she has a letter from the Governor encouraging Oregonians to write their own stories about Oregon and submitting them to the Oregon 150 Committee.

3385 EXECUTIVE SESSION.

Mayor Figley entertained a motion to adjourn into executive session under the authority of ORS 192.660(2)(i).

NICHOLS/LONERGAN... adjourn to executive session under the statutory authority cited by the Mayor.

Administrator Brown stated for the record that he would waive his right to have his performance evaluation done in open session.

The motion passed unanimously.

The meeting adjourned to executive session at 8:45 p.m. and reconvened at 9:18 p.m..

3404 Mayor Figley stated that no decisions were made by the Council while in executive session.

COX/NICHOLS... grant the City Administrator a raise effective October 1, 2007 in the amount of 6% of base salary which includes the COLA adjustment that he has already received. The motion passed unanimously.

3440 ADJOURNMENT.

MCCALLUM/SIFUENTEZ...meeting be adjourned. The motion passed unanimously. The meeting adjourned at 9:21 p.m..

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APPROVED _____
KATHRYN FIGLEY, MAYOR

ATTEST _____
Mary Tennant, Recorder
City of Woodburn, Oregon

**Executive Session
COUNCIL MEETING MINUTES
January 14, 2008**

DATE. CONFERENCE ROOM, CITY HALL, CITY OF WOODBURN, COUNTY OF MARION, STATE OF OREGON, JANUARY 14, 2008.

CONVENED. The Council met in executive session at 8:50 p.m. with Mayor Figley presiding.

ROLL CALL.

Mayor	Figley	Present
Councilor	Bjelland	Present
Councilor	Cox	Present
Councilor	Lonergan	Present
Councilor	McCallum	Present
Councilor	Nichols	Present
Councilor	Sifuentez	Present

Staff Present: City Administrator Brown (9:02 pm - 9:15 pm), City Recorder Tennant

Mayor Figley reminded the Councilors and staff that information discussed in executive session is not to be discussed with the public.

The executive session was called pursuant to ORS 192.660(2)(i) to review and evaluate, pursuant to standards, criteria and policy directives adopted by the governing body, the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member unless the person whose performance is being reviewed and evaluated requests an open hearing.

ADJOURNMENT.

The executive session adjourned at 9:15 p.m..

APPROVED _____
KATHRYN FIGLEY, MAYOR

ATTEST _____
Mary Tennant, Recorder
City of Woodburn, Oregon

Minutes
Annual Board Workshop
January 8, 2008
6:00 – 8:30 p.m.

DRAFT

1. Call to Order

Jim Row began the meeting at 6:03 p.m.

2. Present

Board Chair	Bruce Thomas	Present
Board Secretary	Rosetta Wangerin	Present
Member	Joseph Nicoletti	Present
Member	Judy Wesemann	Absent
Member	Eric Morris	Present
Member	Charlene Williams	Present
Member	vacant	vacant

Staff present: Jim Row, Community Services Director; Stu Spence, Recreation Services Manager; Debbie Wadliegh, Facilities and Aquatics Manager; Paulette Zastoupil, Clerk.

Bruce Thomas thanked Eric Morris and Charlene Williams on their Park Board appointment. Each Park Board and staff member was given Park Board Notebooks, Ordinance 2270 and Ordinance 2060.

3. Review City Council Goals

Jim reviewed the 2007-2008 City Council Goals and went through each section with emphasis on Parks and Recreation. Discussion and questions were answered involving the City's budget process, including additional funds requests and the use of System Development Charges.

4. Project Discussion

1. Parks and Recreation Comprehensive Master Plan

The 1999 Parks and Recreation Comprehensive Master Plan is being updated with assistance from Group Mackenzie/ GreenPlay. The project kicked-off in November. In mid-December, the consultants facilitated community and staff focus group meetings, and gathered significant input regarding current level of service, inventory of facilities, recreational programs and maintenance. By the end of January or early February, they will mail a random survey to approximately 3000 Woodburn citizens. We expect to receive between 300-400 completed surveys. An outreach to the Woodburn Latino community will be conducted to encourage a representative response. The consultants will update our park inventory, changes in population growth estimates, and develop an updated CIP. A draft Plan should be available in about six months. It will then go before the Planning Commission and City Council.

2. SDC Methodology Update

The City's SDC Methodology was last updated in 1999. Jim stated that nothing has changed with this project since the last workshop. It will be updated as soon as the Parks and Recreation Master Plan has been updated.

3. **Mill Creek Greenway Phase I**
Jim gave a brief history of the Mill Creek Greenway Master Plan. In 2003, a Task Force was formed and an inventory and assessment of the potential trail system was completed. The resulting Mill Creek Master Plan was adopted by the City Council in May 2006. In spring of 2007, a \$210,000 State Grant was awarded, to be matched with Parks SDC funds, to begin the first phase of the project. A design team will be selected within a couple of weeks. The Board discussed the Mill Creek Greenway Phase I plan and viewed the south section of the map.
4. **Playground Replacement**
Bruce presented a brief history of this project. A few years ago, the Board developed a 10-year plan to replace every City owned playground. The plan involves replacing one playground each year. A KaBOOM! grant helped fund the replacement of Nelson Park in 2006, and other various grants and City funds replaced North Front Street Park in 2007. A \$30,000 grant from the State of Oregon will fund the replacement of the playground at Burlingham Park this May. It was discussed that the playground replacement schedule may need to be updated in a future board meeting. Bruce Thomas re-enforced the fact that this project takes a lot of effort and encouraged Board members to support it by getting involved and working on the necessary committees.
5. **Aquatic Center Expansion - Community Arts & Cultural Center**
Board reviewed the final concept plan and was invited to hear the Consultant's presentation at the January 14, 2008 City Council meeting. The City Council will then have the opportunity to ask questions and give direction to our department on how to proceed.
6. **Legion Park Master Plan**
This plan will be included with recommendations in the Parks and Recreation Comprehensive Master Plan. Jim explained that this project will be hard to find funding to complete. A discussion on a more extensive tree inventory is needed.
7. **Settlemeir Park Master Plan**
This plan will be included with recommendations in the Parks and Recreation Master Plan.
8. **Centennial Park Phase IV**
Board discussed reasons why the Centennial Park Master Plan may need to be updated. Jim explained that the Mid-Valley Baseball Association is seeking grants to fund the completion of ball field #4. He went on to explain the City's partnership with the Mid-Valley Youth Baseball Association, in which the city provides the facility and support and the association runs the program and collects the revenue. Again, the Parks and Recreation Plan will address this park at a conceptual level.
9. **Woodburn Community Foundation**
The Foundation is a key part of funding and grant writing to meet department goals. There has been no change since the last Board workshop on this project.

10. **Recreation Needs Assessment**

Jim explained that this project was delayed, due to the Recreation Services Manager vacancy. The Master Plan survey and related analysis will do many of the things that a recreation needs assessment would do. Once the Master Plan is complete, we will assess whether further assessment is necessary.

11. **Project Prioritization**

The Board members were asked to prioritize the following 7 projects. They were asked to assign a 1-7 score to each project, with 7 representing their highest priority and 1 representing their lowest priority. They could use each number (1-7) only once. The projects with the highest scores will represent the Board's highest priorities for the coming year. The results follow:

2008 Project List	Bruce	Rosetta	Eric M.	Joseph	Charlene	Total	Rank
1. Annual Playground Replacement Initiative	7	6	6	7	7	33	1
2. Centennial Park Phase IV	6	7	7	2	6	28	2
3. Mill Creek Greenway Phase I	5	4	3	6	5	23	3
4. Aquatic Center Expansion	4	5	5	4	3	21	4
5. Implementation of Legion Park Master Plan	2	3	4	5	4	18	5
6. Implementation of Settlemier Park Master Plan	3	2	2	3	2	12	6
7. Community Arts and Cultural Center	1	1	1	1	1	5	7

For comparison, the 2007 Project Prioritization List, is as follows:

2007 Project List	Bruce	Rosetta	Eric Y.	Joseph	Total	Rank
1. Annual Playground Replacement Initiative	8	8	8	8	32	1
2. Aquatic Center Expansion	4	7	7	6	24	2
3. Mill Creek Greenway Phase I	7	4	5	5	21	3
4. Implementation of Legion Park Master Plan	3+	5	6	4	18+	4
5. Implementation of Settlemier Park Master Plan	5	6	3	3	17	5
6. Centennial Park Phase IV	6	3	4	2	15	6
7. Community Arts and Cultural Center	1	1	1	7	10	7
8. Burlingham Park renovation	2	2	2	1	7	8

Meeting adjourned at 8:55 p.m.

Rosetta Wangerin, Board Secretary

Paulette Zastoupil, Recording Secretary

Date _____

Date _____

COMMUNITY SERVICES DEPARTMENT STATISTICS

DECEMBER 2007

Recreation Services Division

	<u>Dec-06</u>	<u>Dec-07</u>	<u>2006 YTD</u>	<u>2007 YTD</u>
<u>Revenue:</u>	\$6,325.00	\$4,044.00	\$51,001.00	\$61,002.41
<u>Expenditures:</u>	\$26,690.00	\$20,439.49	\$207,586.82	\$180,973.85
<u>Program Attendance:</u>				
Youth Sports:	0	0	601	476
Adult Sports:	620	450	2,573	1,901
Youth Programs:	0	0	2,300	1,610
Adult Programs:	24	7	516	17
Teen Programs:	0	184	0	2,452
After School Club:	1,668	1,919	8,875	8,200
Special Events:	300	0	4,495	9,500
TOTAL:	2,612	2,560	19,360	24,156

Aquatics Division

	<u>Dec-06</u>	<u>Dec-07</u>	<u>2006 YTD</u>	<u>2007 YTD</u>
<u>Revenue:</u>	10,483.26	8,473.17	74,337.23	76,697.63
<u>Expenditures:</u>	39,192.46	44,326.81	258,395.58	278,116.20
<u>Cost Recovery:</u>	27%	19%	29%	28%
<u>Attendance:</u>	3,480	3,102	25,195	25,214
<u>Lesson Enrollment:</u>				
Group:	51	66	592	725
Adults:	0	5	3	19
Private:	0	0	5	31
4th Grade:	75	59	333	305
TOTAL:	126	130	933	1,080

Library Division

	<u>Dec-06</u>	<u>Dec-07</u>	<u>2006 YTD</u>	<u>2007 YTD</u>
<u>Revenue:</u>	1,389.35	1,573.53	37,540.90	40,703.21
<u>Expenditures:</u>	85,390.31	76,854.00	486,408.53	477,715.18
<u>Library Attendance:</u>	16,904	13,026	103,069	89,243
<u>Library Circulation:</u>	8,749	10,539	60,786	68,126
			0	0
<u>Adult Program Count:</u>	0	1	11	11
<u>Adult Attendance:</u>	0	45	6,244	3,745
<u>Youth Service Program Count:</u>	35	26	168	152
<u>Youth Service Attendance:</u>	480	451	3,265	2,977
			0	0
<u>Database Usage:</u>	458	369	3,360	4,302
<u>Adult Computer Usage:</u>	4,077	4,156	26,404	25,472
<u>Youth Services Computer Usage:</u>	843	742	5,288	5,048
			0	0
<u>New Adds:</u>	391	437	2,080	3,024
<u>Volunteer Hours Worked:</u>	109	85	926	573

DECEMBER 2007

PLANNING PROJECT TRACKING SHEET

Revised: Wednesday, January 23, 2008

Project	Applicant	Description Site/Location:	Status:	Date Received	Deemed Complete	120 Day Date	Planner	Referrals	Facilities Meeting	Mail Notice for PC	Notice to Paper	Post Property	Stf Rpt Due	PC Hearing Admin Dec.	PC Final Order	Appeal Deadline
DR 2007-10,	King's Moy Management	Site upgrade, install new fire hydrant, landscaping & restripe parking for new furniture store. 770 N. Pacific Hwy	Received	10/04/2007	12/26/2007	04/24/2008	Sam Gollah									
DR 2007-13,	Varitsiotis Architecture (JCK Restaurants)	Carl's Jr. fast food restaurant 1755 Mt. Hood Ave.	Received	11/20/2007	01/04/2008	05/03/2008	Sam Gollah									
DR 2007-14,	Scott Beck, Architect	Kerr Contractors office addition. 395 Shenandoah Ln	Received	12/13/2007	01/15/2008	05/14/2008	Sam Gollah	12/13/2007								
EXCP 2008- 01, DR 2007-11	John Baker (Cuppy's Drive- Thru)	Type II Exception to Street ROW & Improvements 987 Lawson Avenue	Received	01/16/2008			Don Dolenc									
FPUD 2007- 02, ANX 97-08, ZC 97-12, CU 97-03, PUD 97- 03, VAR 97-12	Bryan Cavaness	Final approval of PUD - Boones Crossing III, Type I Dahlia Street and Brown Street	Received	07/12/2007			Don Dolenc									
LA 2007-02,	City of Woodburn	Legislative Amendment Period Review Remand City of Woodburn	Received	11/26/2007			Jim Allen									
LA 2007-03,	City of Woodburn	Legislative Amendment 270 Montgomery St.	Received	11/26/2007			Jim Allen									
ZA 2007-03,	Mastery Learning Institute	Modification to parking conditions of approval with a Zoning Adjustment 591 Gatch St.	Received	08/27/2007	12/26/2007	04/24/2008	Sam Gollah									

PLANNING PROJECTS (INCOMPLETE / HOLD)

Revised: Wednesday, January 23, 2008

Project	Applicant	Site Location:	Description	Status:	Date Received	180-Expiration:	Planner
DR 2007-12VAR 2007-07, EXCP 2007-08	Mark Grenz, P.E. / Multitech	845 East Lincoln Street	Multiple-family dwellings	Incomplete	11/13/2007	05/11/2008	Don Dolenc
PUD 2006-01ZC 2006-01, CU 2006-04, CPC 2007-01	Boones Crossing, LLC - Mike Hanks	Parcels 1, 2 & 3 of Partition Plat 2006-55	Modifications to Boones Crossing PUD	Incomplete	10/31/2006	04/29/2007	Jim Allen

Activity Report - January 10 through January 23

Folder Name	Applicant	Project	Site Location	Description	Date Rec'd:	App Comple	Status:	Planner:
BL 2008-002	Michael Theodore Celmer	Rapid Transit Automotive LLC	389 W. Hayes St.	Mobile Auto Repair	01/16/2008			Sam Gollah
BL 2008-003	Lee Zumwalt	LZB Inc dBa Earth Anchors	619 SE 12th St.	Construction - Contractor	01/22/2008			Sam Gollah
PAPP 2008-01	Y. Yakubovich	Y. Yakubovich	855 Luba St.	Divide the lot into 3 (possibly more) parcels.	01/14/2008			
PAPP 2008-02	Derek Bentley	Derek Bentley	2499 N. Front St.	Develop front 2.5 acres; building structure to be for lease or sale.	01/16/2008			Don Dolenc
TMKT 2008-01	Yolanda Guerrero	Yolanda Guerrero	320 North Pacific Highway	Flower stand for a 2-day event from Feb. 13-14.	01/10/2008			

January 28, 2008

TO: Honorable Mayor and City Council through City Administrator
FROM: Jim Row, Community Services Director *JR*
SUBJECT: **Personal Services Agreement for Mill Creek Trail Design**

RECOMMENDATION:

This item is informational only. No action by the Council is necessary.

BACKGROUND:

The City Manager has executed a Personal Services Agreement with Firwood Design Group to develop a detailed design, obtain environmental permits, and manage the construction of the Mill Creek Greenway Trail project.

This will be the first Greenway project completed since the Mill Creek Greenway Master Plan was adopted in May 2006. This project involves constructing a trail system, complete with asphalt pathways, a bridge, two trailheads, benches, and trashcans. The first phase runs from Cleveland Street at the north to Hermanson Pond at the south. The project also includes the replacement of the playground at Hermanson Park I.

The Recreation and Park Board recently created the playground replacement initiative, and considers it their first priority development project. The Board deems implementation of the Mill Creek Greenway to be their third priority project, immediately following the completion of Centennial Park. The City Council adopted the Playground Replacement Initiative and implementation of the Mill Creek Greenway as 2007-2009 Council Goals.

Design work will begin in early February. The preliminary design will be presented at a public meeting, prior to the development of construction documents. Due to the length of time required to obtain wetland permits from the Department of State Lands and the United States Army Corp of Engineers, it is likely that construction will not begin prior to the 2009 construction season.

Agenda Item Review:

City Administrator *JR*

City Attorney *NES*

Finance *Ben*

DISCUSSION:

This project is a current City Council goal. The Budget Committee discussed this project and approved including \$465,000 for it in the General Fund CIP, to be funded by Parks System Development Charges and a \$210,000 grant, which was awarded to the City last fall.

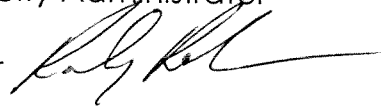

The City received eight proposals from qualified design firms in early November 2007. A three-person committee reviewed and scored the proposals. The top two firms, AKS Engineering and Firwood Design Group were invited to make a presentation to the review committee. Those presentations resulted in the committee's unanimous recommendation to award the contract to Firwood Design Group. At \$46,435, Firwood's proposal was the lowest cost of those received.

FINANCIAL IMPACT:

The contract amount is \$46,435. The Budget Committee and City Council discussed this project and approved including \$465,000 for it, including construction, in the General Fund CIP, to be funded by Parks System Development Charges and a \$210,000 grant awarded by the State of Oregon.

Due to the size of the personal services agreement,
it is not included with Item 8E in this agenda packet.
It is available for review by the public in the City Recorder's
office and in the City Administrator's office.

January 28, 2008

TO: Honorable Mayor and City Council through City Administrator
VIA: Randy Rohman, Acting Public Works Director 
FROM: Julie Moore, C. E. Tech III 
SUBJECT: **Stop sign installation on Williams Avenue where it intersects with Carol Street**

RECOMMENDATION:

Approve the attached resolution to allow the installation of a stop sign on Williams Avenue where it intersects with Carol Street.

BACKGROUND:

Carol Street is a paved street between Lincoln Street and Williams Avenue and was gravel between Williams and Hardcastle until recently when a new housing development was built and the road was improved to standard specifications. Williams is a paved street between Carol Street and Hwy. 99E.

DISCUSSION:

The Manual of Uniform Traffic Control Devices (MUTCD) states that stop signs can be warranted on a street entering a through highway or street or with the intersection of a less important road with a main road where the normal right-of-way rule is unduly hazardous.

Both Carol Street and Williams Avenue are local roads. However, with the road improvement eliminating the gravel portion, Carol will attract more traffic due to multi-family residences and the commercial business in the area, which access Carol Street. Williams currently has a stop sign at the intersection of Hwy. 99E. Staff recommends that a stop sign be placed on Williams Avenue where it intersects with Carol Street.


FINANCIAL IMPACT:

Estimated cost for installation of one stop sign is \$100 including materials and labor, which will be funded from the regular Street Maintenance Budget.

Agenda Item Review:

City Administrator 

City Attorney 

Finance 



COUNCIL BILL NO.

RESOLUTION NO.

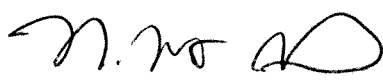
A RESOLUTION DIRECTING THAT A STOP SIGN BE INSTALLED ON WILLIAMS AVENUE AT THE INTERSECTION OF CAROL STREET.

WHEREAS, ORS Chapter 810 grants to the City of Woodburn, the authority to install stop signs at various locations within the City limits, and

WHEREAS, the City Council has received and considered the attached staff report recommending that a STOP sign be placed on William Avenue at the intersection of Carol Street, **NOW THEREFORE**,

THE CITY OF WOODBURN RESOLVES AS FOLLOWS:

Section 1. That a STOP sign be installed on Williams Avenue at the intersection of Carol Street.

Approved as to form: 
City Attorney

1/25/2008
Date

Approved:

Kathryn Figley, Mayor

Passed by Council


Submitted to the Mayor

Approved by the Mayor

Filed in the Office of the Recorder

ATTEST: _____
Mary Tennant, City Recorder
City of Woodburn, Oregon

January 28, 2008

TO: Honorable Mayor and City Council through City Administrator
FROM: Mary Tennant, City Recorder 
SUBJECT: Workers' Compensation Volunteer Coverage

RECOMMENDATION:

It is recommended that the City Council adopt the attached Resolution to extend Workers' Compensation coverage to certain classes of volunteers.

BACKGROUND:

City County Insurance Services (CIS) is the City's workers' compensation insurance carrier for paid staff and volunteers. During annual renewal, the City provides CIS with a payroll estimate for each class of volunteers that perform work for the City. The premium costs incurred are based on actual hours worked by volunteers using the Oregon minimum wage. CIS general liability insurance does not cover volunteers if they are injured or sustain a work-related illness while performing any duties arising out of and in the course of their employment as volunteer personnel for the City since volunteers are entitled to benefits under Oregon Workers' Compensation law.

DISCUSSION:

In October 2001, Resolution No. 1656 was adopted by the Council extending workers' compensation coverage to volunteers in the Library, office clerical staff, and park and recreation programs. CIS has requested that the City provide an updated resolution on volunteer activities to be covered under workers compensation since our fiscal year 2007-08 application only lists coverage election for library and office clerical staff volunteers. In the event the City needs volunteer coverage extended into other class codes during the remainder of this fiscal year, the resolution allows for the extension of coverage provided that CIS is given advanced notice of the coverage needed. In regards to park and recreation volunteers, a special accident policy has been in place for several years which covers recreation program volunteers while participating in these City run programs.

Agenda Item Review:

City Administrator 

City Attorney 

Finance 

FINANCIAL IMPACT:

The estimated financial impact for fiscal year 2007-08 based on estimated payroll of \$10,000 is \$21.00. The current fiscal year budget included the estimated cost for insurance coverage within each department based on hours of service provided by volunteers.

COUNCIL BILL NO.

RESOLUTION NO.

**A RESOLUTION EXTENDING WORKERS' COMPENSATION COVERAGE TO
VOLUNTEERS OF THE CITY OF WOODBURN.**

WHEREAS, the City wishes to protect its volunteer workers from injuries arising out of the scope of their service to the City, now, therefore

THE CITY OF WOODBURN RESOLVES AS FOLLOWS:

Section 1. Pursuant to ORS 656.031, workers' compensation coverage will be provided to the classes of volunteer workers listed on the attached Volunteer Election Form (Exhibit A), by reference incorporated herein.

Section 2. Non-public safety volunteers will keep track of their hours and have their assumed payroll reported in the correct class code for the type of work being performed using Oregon minimum wage.

Section 3. A roster of active volunteers will be kept monthly for reporting purposes. It is acknowledged that City County Insurance Services may request copies of these rosters during year-end audit.

Section 4. Unanticipated volunteer projects or exposure not addressed herein will be added onto the City of Woodburn's coverage agreement (1) by endorsement, (2) with advance notice to CIS, and (3) allowing two weeks for processing. It is hereby acknowledged that coverage of this type cannot be backdated.

Approved as to form: _____

APPROVED _____
KATHRYN FIGLEY, MAYOR

Passed by the Council
Submitted to the Mayor
Approved by the Mayor
Filed in the Office of the Mayor

ATTEST _____
Mary Tennant, Recorder
City of Woodburn, Oregon


(E) Inmates/Community Service Workers: If your entity uses workers from the correctional system (i.e., community service workers, inmates on work release, peer review crews, etc.), it is important to clarify in writing who will provide workers' compensation coverage for these workers prior to work inception. CIS recommends you obtain a Certificate of Coverage for Workers' Compensation from the sentencing court or make arrangements to provide coverage through your own entity. If you are responsible for providing the workers' compensation coverage, be sure to keep monthly time records for these workers and report them using Oregon minimum wage. CIS has designated Class Code 7720V for this type of exposure.

(F) Miscellaneous: Assumed payroll for all other volunteer elections should be computed at Oregon minimum wage using actual hours worked and reported in the appropriate NCCI classification code with a "V" added to the end. Unanticipated volunteer projects or exposure can be added throughout the coverage year (1) by endorsement, (2) with advance notice to CIS, and (3) allowing two weeks for processing. **Coverage of this type cannot be backdated.**

City County Insurance Services Volunteer Election Form for Coverage Year 7/1/2007 to 6/30/2008						
Multiply (1) x (2) x (3) x (4) = Estimated Assumed Payroll						
Volunteer Category	CIS Code	(1) Est. No. of Volunteers per month	(2) No. of Hours per month	(3) No. of Months per year	(4) Oregon Minimum Wage (\$7.50)	(5) 2007- 08 Estimated Assumed Payroll
City Hall/County Courthouse Maintenance	9015V					
Clerical	8810V					2,500
College/School (manual labor)	9101V					
Community Center	9102V					
Court-Mandated Community Service Workers	7720V					
Emergency Telecommunicators	8810V					
Garbage/Refuse	9403V					
Golf Course	9060V					
Interpreters	8810V					
Library	8810V					7,500
Library & Museum Maintenance	9101V					
Lifeguards (pools)	9015V					
Lifeguards (beaches & rivers)	9102V					
Meal site Volunteers	9079V					

January 28, 2008

TO: Honorable Mayor and City Council through City Administrator

Via: Scott D. Russell, Chief of Police 

FROM: Thomas P. Tennant, Captain

SUBJECT: **2008 OLCC Renewal**

RECOMMENDATION:

City Council recommend to the Oregon Liquor Control Commission renewal of liquor licenses for the listed businesses for the year 2008.

BACKGROUND:

The Police department is responsible for reviewing all liquor license applications. The Department also conducts annual renewals, which take into account activities occurring at or in the vicinity of all licensed liquor establishments in Woodburn. Application reviews and annual renewals are conducted in accordance with Council Resolution 1613, dated January 23, 2001, which established guidelines and procedures for liquor license recommendations. Through these guidelines and procedures, the City Council ensures equitable and consistent treatment of liquor license applications. Adopted policy protects the interest of the general public and provides consistent direction to staff in the processing of liquor license.


Standards used by the Police department to evaluate applicants and license holders include:

- Fights and assaults
- Liquor law violations by licensee or their employees
- Excessive or obtrusive noise
- Illegal drug use or sales on the premises
- Trespass on private property
- Public drunkenness
- Failure of licensee to take appropriate action to prevent or control problems caused by patrons on the premises or within the local vicinity.

Agenda Item Review:

City Administrator 

City Attorney 

Finance 

Evaluation Guidelines and Criteria are as follows:

1. A recommendation to deny the renewal application will be made when there are persistent problem involving the types of police calls listed above related to the sales of alcohol.
2. The police department will automatically recommend denial of a renewal application when there is a record of ten arrests, in the prior twelve months, of employees or patrons of the licensed business for unlawful activities related to the sale or service of alcohol under the license either on the premise or in the vicinity.
3. Actions by the licensee, which might tend to mitigate the problems, should be considered by the City Council. Examples of mitigating actions are seeking and following recommendations by the OLCC, or police, and increased security measures.
4. In addition to the criteria previously outlined, a recommendation for denial of a license renewal may be made when there are persistent problems involving police calls related to sales or service of alcohol not stemming from calls for assistance from the establishment, within the preceding twelve months, concerning unlawful activities by employees and patrons of the licensed business, either on the licensed premises or in the immediate vicinity thereof.
5. The recommendation by the police department is only one component of the liquor license recommendation process. Community input is significant factor in a review of applications by the Council. With all licensing activities, it must be remembered that the City recommends and OLCC grants or denies.

DISCUSSION:

Fifty (53) licenses were evaluated for renewal in 2008. These include 23 Off-Premise Sales licenses, where alcoholic beverages may be sold, but not consumed on the premises; 11 Limited On-Premise Sales establishments, where beer and wine may be consumed on the premises; and 19 Full On-Premise Sales licenses, where hard alcohol may be consumed on the premises. All 53 licenses are recommended for renewal.

All liquor license establishments met the guidelines and policies established by Resolution 1613 in the year 2001 without the need for comment. Those establishments denoted by an "*" have a compliance plan. Compliance plans are developed to bring establishments into compliance due to a history of serious and persistent problems or because of frequency of problems within the immediate area.

The following liquor license applications are recommended for approval by the police department:

Off-Premise Sales:

7-11 Store #2353-17416B
Bi-Mart #643
Safeway Store #1976
Crossroads Grocery & Deli
Salvador's Bakery I
E-Z Stop Market Grocery & Deli
A&J Market
Gary's Market #1
Woodburn Shop N Kart
The Raven Inn
O'Donnell Enterprises (AM-PM Mini Mart)
OLCC Store #60

Su Casa Imports
Grocery Outlet of Woodburn
Woodburn Stop N Go
Piper's Jewelry
Harry & David
Woodburn Fast Serve (Woodburn Chevron)
Roadrunner V Woodburn
Young Street Market
Walmart Supercenter #1793
US Market #109
Your Northwest
La Azteca

Full On-Premise Sales:

* Chu's Eatery
* Los Cabos Mexican Restaurant
Lupita's
Eagle's Lodge #3284
OGA Members Course
Denny's at Woodburn
Senior Estates Golf & Country Club
Billy O Deli & Pub
Perla's Restaurant
Margarita's La Cantina

Elmer's Restaurant
The End Zone Sports Bar
Elk's Lodge #2637
Rumors Bar & Grill
* Yun Wah Chinese Restaurant
The Bistro at Well Springs
The Raven Inn
* Cinco De Mayo Taqueria
Happy Garden Buffet

Limited On-Premise Sale:

Abby's Pizza Inn
Pizza Hut
Taqueria Guadalajara
Cactus grill Taqueria & Restaurant II
7 Mares Restaurant
Salvadors Bakery

Mugsy's Bagles
Shari's of Woodburn
Nuevo Arandas
Woodburn Lanes
Cactus Grill Taqueria

FINANCIAL IMPACT:

None

12/3/2007

City of Woodburn, Mary Tennant
WOODBURN
270 Montgomery St
Woodburn, OR 97071

OLCC LICENSE RENEWALS

Attached is the list of OLCC liquor licenses in WOODBURN that are eligible for license renewal. These licenses will expire on 4/1/2008.

Oregon Revised Statute (ORS) 471.166 establishes the process for local governments to make recommendations to the OLCC. It also requires the OLCC to notify licensees of the license renewal application or processing fees charged by their local governments. According to our records, you charge:

License Renewal Fee: \$35.00

Off Premises Fee: \$35.00

We will direct renewal applicants to mail the renewal fees to the address on this letter. Please notify us immediately if the fees or address are incorrect.

Approximately 40 days after the licenses expire, the OLCC will send you a list of the licensees who filed a renewal application. You can use this list to verify that applicants have paid your fees.

Recommendation Process:

You have until 2/6/2008 to exercise one or more of the following options:

1. Provide a written renewal recommendation to the OLCC for any or all of the licenses on this list.
2. Make a written request for additional time to investigate a specific renewal or renewals. The request must set forth the reason additional time is needed, state that the local government is considering making an unfavorable recommendation, and state the specific grounds being considered toward an unfavorable recommendation.
3. Take no action. After 2/6/2008, the OLCC will process the renewal applications as if you made a favorable recommendation.

Please send any correspondence to OLCC License Renewals, P.O. Box 22297, Portland, OR 97269 2297. You can also contact our license renewal section at 1 (800) 452.6522, or at (503) 872.5121 or (503) 872.5122 in Portland.

Dist. #	License Number	Tradename	Participant	License Type	Premises Address
Local Government: WOODBURN					
2	97113	7 MARES RESTAURANT	DAMAS, OBDULIO M	L	561C N PACIFIC HWY, WOODBURN, OR
	91691	7-ELEVEN STORE #2353-17416B	LONG, CARL E	O	893 N PACIFIC HWY, WOODBURN, OR
	94344	A & J MARKET	A & J MARKET INC	O	134 HARRISON ST, WOODBURN OR
	89324	ABBY'S PIZZA INN OF WOODBURN	DON-SUSIE ENTERPRISES INC	L	1215 N PACIFIC HWY, WOODBURN, OR
	89147	BI-MART #643	BI-MART CORP	O	1600 MT HOOD AVE, WOODBURN, OR
	90416	BILLY O DELI & PUB	BILLY O DELI LLC	F-COM	2267 COUNTRY CLUB RD, WOODBURN, OR
	91183	CACTUS GRILL TAQUERIA	CACTUS GRILL TAQUERIA LLC	L	1032 N PACIFIC HWY, WOODBURN, OR
	90954	CACTUS GRILL TAQUERIA & RESTAURANT #2	CACTUS GRILL TAQUERIA LLC	L	1615 MT HOOD AVE, WOODBURN, OR
	89269	CHU'S EATERY	CHU, ANNIE N	F-COM	1390 N PACIFIC HWY, WOODBURN, OR
			CHU, PETER C		
	100718	CINCO DE MAYO TAQUERIA	CABALLERO, ROBERTO I	F-COM	450 N FIRST ST, WOODBURN, OR
			CABALLERO, BATHSHEBA		
	89752	CROSSROADS GROCERY & DELI	PARK, SANG C	O	303 N PACIFIC HWY, WOODBURN, OR
	90183	DENNY'S AT WOODBURN	DENNY'S AT WOODBURN LLC	F-COM	2919 NEWBERG HWY, WOODBURN, OR
	89378	EAGLES LODGE #3284 WOODBURN	EAGLES LODGE #3284, WOODBURN	F-CLU	371 S PACIFIC HWY, WOODBURN, OR
	91366	ELKS LODGE #2637 WOODBURN	ELKS LODGE #2637, WOODBURN	F-CLU	409 N FRONT ST, WOODBURN, OR
	91766	ELMER'S RESTAURANT	WMC INC	F-COM	255 ARNEY RD #100, WOODBURN, OR
	89464	EZ STOP GROCERY & DELI	JABER, MOHAMMED	O	111 N FRONT ST, WOODBURN, OR
	90458	GARY'S MARKET #1	HAMMACK'S MARKETS INC	O	695 N SETTLEMIER AVE, WOODBURN, OR
	99763	GROCERY OUTLET OF WOODBURN	GROCERY OUTLET INC	O	1575 MT HOOD AVE, WOODBURN, OR
			BROWNING, SHANNON		
	98240	HAPPY GARDEN BUFFET	HAPPY GARDEN BUFFET INC	F-COM	1575 MT HOOD AVE #130, WOODBURN, OR
	91299	HARRY AND DAVID #595	BEAR CREEK STORES INC	O	1001 ARNEY RD, WOODBURN, OR
	90033	LA AZTECA	TIENDA MEXICANA LA AZTECA INC	O	153 GRANT ST, WOODBURN, OR
	91617	LOS CABOS MEXICAN RESTAURANT	LOS CABOS RESTAURANT INC	F-COM	1565 N PACIFIC HWY, WOODBURN, OR
	92545	LUPITA'S	OCHOA, MARTIN	F-COM	311 N FRONT ST, WOODBURN, OR
	92918	MARGARITA'S LA CANTINA	LEGENDS BAR & GRILL LLC	F-COM	1593 MT HOOD AVE, WOODBURN, OR
	100918	MUGSY'S BAGELS	HOL KEN ENTERPRISES LLC	L	1585 N PACIFIC HWY SUITE F, WOODBURN, OR
	93074	NUEVO ARANDAS	SEVILLA INC	L	550 N 1ST ST, WOODBURN, OR
	89712	O'DONNELL ENTERPRISES	O'DONNELL, DEAN	O	2720 NEWBERG HWY, WOODBURN, OR
	91002	OGA MEMBERS COURSE	MEMBERS CLUB INC	F-COM	2850 HAZELNUT DR, WOODBURN, OR

Local Government Notification: Renewing Licenses

Dist. #	License Number	Tradename	Participant	License Type	Premises Address
Local Government: WOODBURN					
2	91773	PERLA'S RESTAURANT	GUTIERREZ, MARICELA	F-COM	553 N FRONT ST, WOODBURN, OR
	90274	PIPER'S JEWELRY	PIPER'S JEWELRY INC	O	1727 MT HOOD AVE, WOODBURN, OR
	91164	PIZZA HUT	PIZZA HUT OF SE KANSAS INC	L	1425 MOUNT HOOD, WOODBURN, OR
	89640	ROADRUNNER V WOODBURN	L & L CONVENIENCE LLC	O	850 LAWSON AVE, WOODBURN, OR
	97085	RUMOR'S BAR & GRILL	GTD INC	F-COM	327 N PACIFIC HWY, WOODBURN, OR
	91075	SAFEWAY STORE #1976	SAFEWAY INC	O	1550 N PACIFIC HWY, WOODBURN, OR
	90379	SALVADOR'S BAKERY	KEY ROSE ENTERPRISES INC	L	405 N FIRST ST, WOODBURN, OR
	90391	SALVADOR'S BAKERY	KEY ROSE ENTERPRISES INC	O	405 N FIRST ST, WOODBURN, OR
	82751	SALVADOR'S BAKERY III / EL CORRALEJO	AVILES, RITA	F-COM	320 N PACIFIC HWY, WOODBURN, OR
			MELENDEZ, FRANCISCO A		
			AVILES, SYLVIA		
	97269	SENIOR ESTATES GOLF & COUNTRY CLUB	SENIOR ESTATES GOLF & COUNTRY CLUB INC	F-COM	1776 COUNTRY CLUB RD, WOODBURN, OR
	89925	SHARI'S OF WOODBURN	SHARI'S MANAGEMENT CORP	L	1543 MT HOOD AVE, WOODBURN, OR
	91580	SU CASA IMPORTS	SU CASA IMPORTS INC	O	1032 N PACIFIC HWY, WOODBURN, OR
	92532	TAQUERIA GUADALAJARA	TAQUERIA GUADALAJARA INC	L	966 N PACIFIC HWY, WOODBURN, OR
	92662	THE BISTRO AT WELLSRING	THE SILVERTON HOSPITAL	F-COM	1475 MT HOOD AVE, WOODBURN, OR
	91532	THE END ZONE	B SYDNEY ENTERPRISES LLC	F-COM	980 N PACIFIC HWY, WOODBURN, OR
	91115	THE RAVEN INN	THE RAVEN INN INC	F-COM	262 N PACIFIC HWY, WOODBURN, OR
	92214	US MARKET #109	US MARKET #109 LLC	O	398 N PACIFIC HWY, WOODBURN, OR
	90081	WAL MART SUPERCENTER #1793	WAL-MART STORES INC	O	3002 STACY ALLISON WAY, WOODBURN, OR
	90102	WOODBURN FAST SERV INC	WOODBURN FAST SERV INC	O	2990 NEWBERG HWY, WOODBURN, OR
	92118	WOODBURN LANES	WOODBURN LANES INC	L	435 N PACIFIC HWY, WOODBURN, OR
	90496	WOODBURN SHOP 'N KART	B & E 4 LLC	O	1542 MT HOOD AVE, WOODBURN, OR
	89714	WOODBURN STOP N GO	O'DONNELL ENTERPRISES INC	O	100 ARNEY RD, WOODBURN, OR
	89520	YOUNG STREET MARKET	KIM, HYUN K	O	1030 YOUNG ST, WOODBURN, OR
			KIM, WON S		
	91840	YOUR NORTHWEST	YOUR NORTHWEST INC	O	1001 ARNEY RD #416, WOODBURN, OR
	91006	YUN WAH CHINESE RESTAURANT	YUN WAH CORP	F-COM	2288 COUNTRY CLUB RD, WOODBURN, OR

January 28, 2008

TO: Honorable Mayor and City Council
FROM: John C. Brown, City Administrator
SUBJECT: **Spanish Language Classes**

RECOMMENDATION:

It is recommended the City Council approve a budget transfer in the amount of \$750 (to be included in the list of adjustments presented to Council during the mid-year review) to provide Spanish language instruction to City employees.

BACKGROUND:

Among the Council goals for 2007-09 is *Community Engagement and Communications* to: "continue to provide for language translation in City offices and at public meetings," "improve staff capability and consciousness through training and recognition," and "emphasize high quality customer service." Some of the means used in the past to reach these goals, related to Spanish speaking customers, were to require Spanish language skills for certain positions; provide certification pay to employees who use Spanish language skills to assist the public; hiring a Community Relations Officer; and providing Spanish classes to employees. Classes were held once, several years ago.

DISCUSSION:

I conduct monthly "brown-bag" lunches with City employees. One request coming from the lunches is that the City reinstitute Spanish language training for employees.

A positive response to this request is consistent with the Council's Community Engagement and Communications goal and what was done in the past, so we arranged for a course designed and provided by Chemeketa Community College. The course began January 22, 2008 and will be held on Tuesdays and Thursdays from 11:30 am to 12:50 pm for the next seven weeks, in the Library Community Room. The course includes basic level Spanish vocabulary and

Agenda Item Review:

City Administrator 

City Attorney 

Finance 

grammar, focus on work-related phrases, and Latino culture. Costs total \$750. 27 employees are enrolled, but attendance is limited only by the size of the room. Employees will participate in instruction during their lunch hour. Because, for greater effectiveness, the coursework requires more than an hour per week I am contributing, at City expense, an additional half hour per class for each student.

Based on brown-bag conversations, it can be expected some of those currently enrolled in this course will want to continue their progress. I believe it is appropriate for the City to sponsor ongoing beginning classes until demand subsides, and to sponsor a "next-level" class to help employees attain sufficient proficiency to comfortably conduct simple conversations with our Spanish speaking customers. Employees with higher level Spanish skills also asked for support to improve their skills. That support can be provided by small conversation groups led by the Community Relations Officer and other Spanish-speaking employees. These conversation groups have not been initiated yet, but can be held during a lunch hour, at no cost to the City.

FINANCIAL IMPACT:

Course costs total \$750. This will be divided between the General fund, Street fund, Water fund, Wastewater fund, Technical and Environmental (T&E fund) and Norcom in amounts proportionate to the numbers of employees attending from each of these areas. The majority of costs attaches to the General fund, but will amount to only a few hundred dollars. Funding will be transferred from contingencies in each of the affected funds, as part of mid-year budget adjustments. This item was brought to your attention at this time, as payment to Chemeketa for the class is required.

January 28, 2008

TO: Honorable Mayor and City Council
FROM: John C. Brown, City Administrator
SUBJECT: **City Administrator Employment Agreement**

RECOMMENDATION:

It is recommended the City Council approve, and authorize the Mayor to execute, the attached Addendum to the Employment Agreement with John C. Brown.

BACKGROUND:

I am employed pursuant to a four (4)-year employment agreement executed in September 2004. The agreement establishes my compensation, benefits, working conditions and rights, requires the Council to evaluate my performance annually, and provides for merit-based salary increases. On January 14, 2008 you evaluated my performance for the period from October 1, 2006 through September 30, 2007 and elected to increase my salary, retroactive to October 1, 2007, by six (6) percent, including the three (3) percent COLA that was granted to me on October 1, 2007. The COLA was the same as was granted to other management and non-union employees at that time.

DISCUSSION:

The attached addendum modifies the salary provision of the Administrator's contract, effective October 1, 2007. Other contract provisions are unchanged.

FINANCIAL IMPACT:

The attached agreement increases the City Administrator's base compensation from \$127,572 to \$135,226.32 annually. Total salary and benefits will increase from \$178,632.19 to \$187,915.28. The total cost of this increase in 2007-08 is \$6,962.40 and will be supported primarily by the General Fund. Funding to support this increase is included in the City Administrator's budget for 2007-08.

Agenda Item Review:

City Administrator 

City Attorney 

Finance 

ADDENDUM "C"
COMPENSATION ADJUSTMENT
TO EMPLOYMENT AGREEMENT WITH
JOHN C. BROWN, CITY ADMINISTRATOR

THIS ADDENDUM TO AGREEMENT is entered into this 28th day of January 2008, between the City of Woodburn, ("City"), an Oregon municipal corporation, and John C. Brown, ("City Administrator").

WITNESSETH

WHEREAS, City and City Administrator executed an Employment Agreement on September 27, 2004; and

WHEREAS, that Employment Agreement has been amended to reflect adjustments in the City Administrator's compensation as a result of annual performance evaluations; and

WHEREAS, the City Council conducted an evaluation of City Administrator on January 14, 2008 for the one-year period ending September 30, 2007 and concluded the City Administrator meets or exceeds applicable standards for his employment; and

WHEREAS, the City Council wishes to amend City Administrator's employment Agreement to provide a compensation adjustment based upon the results of City Administrator's evaluation.

NOW, THEREFORE, in consideration of the terms, conditions and covenants contained herein, the parties agree as follows:

The Employment Agreement is amended to add a new section 6 which shall read:

6. Salary. Effective October 1, 2007, and through the remainder of the Services Period, City agrees to pay employee a base annual salary of One Hundred Thirty Five Thousand Two Hundred Twenty Six Dollars and Thirty Two Cents (\$135,226.32) for services rendered. Such amount shall be payable in installments at the same time as the regular employees of City are paid. This amount includes the Cost of Living Adjustment (COLA) granted to management and non-union employees effective October 1, 2007, but is exclusive of the COLA to which employee is entitled on July 1, 2008. Annually, after a satisfactory evaluation by the City Council, an increase in salary will be negotiated.

In Witness Whereof, the parties hereto have executed this Agreement on the date written above.

City of Woodburn

Kathryn Figley, Mayor

City Administrator



John C. Brown, City Administrator